129-252

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. ~~570.~~ ~~103~~ 105

ALFRED CARR, SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF THE STATE OF MISSOURI, APPELLANT,

vs.

WILLIAM E. HAMILTON.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF LOUISIANA.

FILED OCTOBER 12, 1885.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 376.

ALFRED CARR, SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF THE STATE OF MISSOURI, APPELLANT,

vs.

WILLIAM E. HAMILTON.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF LOUISIANA.

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a *Transcript of Appeal, Returnable to the Supreme Court of the United States the Second Monday of October, A. D.* 1885.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Western District of Louisiana.

JOHN F. WILLIAMS, Superintendent, &c.,
vs.
WILLIAM E. HAMILTON.
&
WILLIAM E. HAMILTON
vs.
JOHN F. WILLIAMS, Superintendent, &c.
} Nos. 10 & 11.

Consolidated cases.

William S. Relfe and A. Goldthwaite, solicitors for John F. Williams, sup't, &c.; Alexander & Blanchard and R. J. Looney, solicitors for Wm. E. Hamilton.

1 *Petition for Executory Process. Filed June 28th,* 1883.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Western District of Louisiana.

JOHN F. WILLIAMS, Superintendent, &c.,
vs.
WILLIAM E. HAMILTON.
} No. 10.

To the hon. the judges of the circuit court of the United States for the western district of Louisiana:

John F. Williams, superintendent of the insurance department of the State of Missouri, a citizen of the State of Missouri, residing at St. Louis, Missouri, brings this his bill of complaint against William E. Hamilton, a citizen of the State of Louisiana, residing at Shreveport, in said district.

And thereupon your orator complains and says that on the eleventh (11) day of March, 1870, by act passed before Charles
2 William Lewis, recorder and *ex officio* notary public in and for the parish of Caddo, State of Louisiana, personally came and appeared William E. Hamilton and declared his indebtedness to the Shreveport district of the Louisiana and Texas department of the Life Association of America, therein acting by its president, Robert H. Lindsay, who accepted the act of mortgage in the full sum of thirty-eight hundred and fifty dollars ($3,850), according to the tenor and effect of a certain promissory note dated Shreveport, March 11th, 1870, payable to the order of W. E. Hamilton and by said W. E. Hamilton endorsed to the Life Association of America

for said amount, due twelve months after date, with interest at the rate of eight per cent. per annum after maturity until paid, and paraphed *ne varietur* by said recorder to identify it with said act of mortgage, and to secure the payment of said note and all such eventual interest and costs as may accrue thereon, the said William E. Hamilton did specially mortgage, affect, and hypothecate in
3 favor of said Robert H. Lindsay, president as aforesaid, and also in favor of all future holders of said note, their heirs and assigns, the following-described property, to wit:

Lots Nos. thirteen, fourteen, and fifteen (13, 14, & 15), in block No. thirty-nine (39), in the city of Shreveport, parish of Caddo, State of Louisiana, together with all the buildings and improvements thereon.

That by said act of mortgage, as aforesaid, it appears that the payment of said note, in capital and interest, is secured by special mortgage on the property hereinabove described, which imports a confession of judgment, and that by said act like mortgage is conveyed to secure five per cent. attorneys' fees on the amount sued for in the event of suit on said mortgage; that interest on said note has been paid up to the 11th day of March, 1879, and that said note is due and unpaid; that said mortgage contains the fact, *de non aliendo*, that said mortgage was filed and recorded in the office of the
4 recorder of mortgages for the parish of Caddo on the 11th day of March, 1870, and reinscribed in the office of the recorder of mortgages for the parish of Caddo on the 28th day of May, 1881.

That said note and mortgage were duly indorsed to the Life Association of America, and by the insolvency of said Life Association of America and the laws of the State of Missouri providing for the liquidation of said corporation and the decree of the court of Missouri the said note and mortgage vested in the superintendent of the insurance department of the State of Missouri; that your petitioner, as the superintendent of the insurance department of the State of Missouri, is the holder and owner of said note and mortgage.

Your orator annexes hereto the copy of the said act of mortgage and the note secured thereby and makes them parts of this bill and makes them Exhibits A & B.

Your orator avers amicable demand.

5 Wherefore your orator prays that executory process issue as the law directs; that the said property described in the act hereto be seized and sold, and from the cash proceeds thereof your orator be paid, with lien and special mortgage, thirty-eight hundred and fifty dollars ($3,850), with eight per cent. interest per annum after maturity until paid and five per cent. attorneys' fees, and for costs and general relief.

(Signed) WM. S. RELFE,
A. GOLDTHWAITE,
Sol'rs for Compl't.

EXHIBIT A. Filed with and Made Part of Petition for Executory Process.

$3,850. SHREVEPORT, *March 11th*, 1870.

Twelve months after date I promise to pay to the order of myself the full sum of thirty-eight hundred and fifty dollars, with 8% interest after maturity until paid, value received.

(Signed) W. E. HAMILTON.

[Written across face:] *Ne varietur.* March 11th, 1870. C. W. Lewis, recorder.

Endorsed.

Pay to the Life Association of America or order.

6 (Signed) W. E. HAMILTON.

Int. paid up to March 11th, 1872. Extended 12 months. Int. paid up — March 11th, 1876.

THOMAS PHILLIPS, *Secretary.*
W. E. HAMILTON.

Extended on- year. Interest paid up to March 11, 1877.

THOMAS PHILLIPS, *Secretary.*

MARCH 12, '78.

Renewed for 1 year from date, & interest paid up to March 11th, 1879.

THOMAS PHILLIPS, *Sec.*

This note extended for one year. Interest paid up to March 11th, 1873.

THOMAS PHILLIPS, *Secretary.*
W. E. HAMILTON.

This note extended for one year. Interest paid to March 11, 1874.

THOMAS PHILLIPS, *Secretary.*
W. E. HAMILTON.

Extended for one year. Int. paid to March 14th, 1874.

T. PHILLIPS, *Sec.*
W. E. HAMILTON.

Int. p'd to March 11th, '79. Pay to order of H. W. Hough, pres't.

EXHIBIT B. Filed with and Made Part of Petition for Executory Process.

7 STATE OF LOUISIANA, *Parish of Caddo:*

Be it known that this day before me, Charles Wm. Lewis, recorder and *ex officio* notary public in and for the said parish, duly commissioned and sworn, came and appeared William E. Hamilton, a resi-

dent of Shreveport, Louisiana, who declared that he is justly indebted to the Shreveport district of the Louisiana and Texas departments of the Life Association of America, herein acting by its president, Robert H. Lindsay, who accepts this act of mortgage in the full sum of thirty-eight hundred and fifty dollars, and in evidence of which indebtedness he has given his promissory note, dated with this act, payable to the order of himself and by him endorsed, for said amount, due at twelve months from date, with 8% interest after maturity, and paraphed "*ne varietur*" of this date by me, notary, to identify it herewith; and in order to secure the payment of said note the said

8 W. E. Hamilton declared that he does by these presents specially mortgage and hypothecate unto and in favor of said Robert H. Lindsay, president as aforesaid, and also in favor of all future holders of said note, their heirs and assigns, the following-described property, to wit: Lots Nos. thirteen, fourteen, and fifteen (13, 14, & 15), in block No. thirty-nine (39), in the city of Shreveport, parish of Caddo, State of Louisiana, together with all the buildings and improvements thereon.

The said Hamilton binds himself not to alienate, deteriorate, or encumber said property to the prejudice of this mortgage, and also agrees that in the event of foreclosure of this mortgage he will pay all costs of suit, including attorneys' fees, which shall not exceed 5% on the amount sued for, and also agree- that if said note shall not be paid at its maturity the said described property may be seized and sold for cash, without the benefit of appraisement, to pay and satisfy the same.

9 This mortgage importing full confession of judgment, the certificate of mortgages is hereby dispensed with by the parties.

The U. S. internal revenue stamps to amount of four dollars have been hereto duly affixed.

Done and passed at my office, in said parish of Caddo and city of Shreveport, in the presence of —— —— and —— ——, competent witnesses, on this the eleventh day of March, A. D. eighteen hundred and seventy.

W. E. HAMILTON.
R. H. LINDSAY,
Pres. Shr'p't Dist.

Attest:
W. B. OGILVIE.
CHAS. V. COSBY.

C. W. LEWIS,
Recorder & ex Officio Not. Pub.

(Endorsed:) Act. of mortgage. Recorded March 11th, 1870. C. W. Lewis, recorder. Re-recorded May 28th, 1881. W. G. Roney, dep'y clerk & *ex officio* dep'y recorder.

CLERK'S OFFICE, CADDO PARISH, LA.

I hereby certify that the above and foregoing is a true and correct copy of the original mortgage given by William E. Hamilton

to the Life Association of America as the same now appears
10 on file and of record in this office.

Given under my hand and official seal, at Shreveport, La., on this 7th day of June, A. D. 1883.

[SEAL.] (Signed) ALLAN V. WILSON,
Dep. C'k & ex Off. Dep. Recorder.

Order Allowing Executory Process.

It is ordered in this case that executory process issue as prayed for according to law.

Thus done and signed in open court.

June 28th, A. D. 1883.

(Signed) ALECK BOARMAN,
U. S. Judge.

Notice of Seizure and Sale. Filed July 6th, 1883.

Circuit Court of the United States, Fifth Circuit, Western District of Louisiana.

JOHN F. WILLIAMS Superintendent, &c., *vs.* WILLIAM E. HAMILTON. } No. 10.

To William E. Hamilton:

11 Take notice that payment is demanded of you, within three days from the service hereof, of the amount specified in the writ of seizure and sale granted on the accompanying bill of complaint, with interest and costs, and in default of payment within that delay the property referred to in said bill of complaint will be seized and sold according to law.

A further delay of one day for every twenty miles distance from your domicil to this city, which place this court is held, is allowed you by law.

Clerk's office, Shreveport, June 29th, 1883.

(Signed) J. W. WHEATON, *Clerk*,
Per J. N. JACKSON,
Deputy Clerk.

Marshal's Return.

Rec'd in office June 30th, 1883, & on the same day, month, and year I made service by handing a certified copy of the within to Mrs. Sallie Hamilton, a person apparently over the age of
12 fourteen years, at the residence of W. E. Hamilton, in the city of Shreveport, La.

(Signed) P. B. WEAKS,
D'y U. S. Marshal.

Writ of Seizure and Sale. Issued July 6th, 1883.

UNITED STATES OF AMERICA.

Circuit Court of the United States, Fifth Judicial Circuit and Western District of Louisiana.

JOHN F. WILLIAMS, Sup't, &c.,
vs.
WILLIAM E. HAMILTON. } No. 10.

The President of the United States to the marshal of the United States for the western district of Louisiana, Greeting:

You are hereby commanded that by the seizure and sale of the following-described property, situated in the city of Shreveport, in said western district of Louisiana, to wit: Lots thirteen, fourteen, and fifteen (13, 14, & 15), in block No. thirty-nine (39), in the
13 city of Shreveport, together with all the buildings and improvements thereon—

That you cause to be made the sum of thirty-eight hundred and fifty dollars ($3,850), with eight (8) per cent. per annum interest thereon from the 11th day of March, 1879, until paid, and all costs, including five per cent. attorneys' fees on amount sued on.

This sale you will make for cash, without the benefit of appraisement, after all legal notices, delays, and advertisements, to pay and satisfy the amount due at date of said sale.

And how you shall have executed this writ make due return to our said court, as the law directs.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Shreveport, this the 6th day of July, A. D. 1883, and the 107th year of the In-
14 dependence of the United States of America.

[SEAL.] (Signed) J. W. WHEATON, *Clerk.*

Marshal's Return.

Rec'd in office July 7th, 1883, and on the same day, month, and year I seized and took into my possession the following-described property, situated in the city of Shreveport and described in this writ, viz: Lots No. thirteen, fourteen, and fifteen (13, 14, & 15), in block No. 39, with all the buildings and improvements thereon, as will appear by a copy of notice of seizure served on def't, W. E. Hamilton, in this city of Shreveport, La.

(Signed) P. B. WEAKS,
D'y U. S. Marshal.

Notice of Seizure. Filed July 9th, 1883.

In the United States Circuit Court for the Western District of Louisiana.

JNO. F. WILLIAMS, Sup't Ins. Dep't,
vs.
WM. E. HAMILTON. } No. 10.

U. S. MARSHAL'S OFFICE,
WESTERN DISTRICT OF LOUISIANA,
SHREVEPORT, LA., *July 7th*, 1883.

15 To Wm. E. Hamilton:

Take notice that I have seized, and in three days from the service hereof shall proceed to advertise and sell according to law, the following-described property, viz: Lots 13, 14, & 15, thirteen, fourteen, and fifteen, in block # 39, in the city of Shreveport, with all the buildings and improvements thereon, to pay and satisfy the writ of seizure and sale issued in the above cause—say the sum of $3,850, exclusive of interest and costs.

(Signed) P. B. WEAKS,
U. S. Deputy Marshal.

Return.

On the 7th day of July, 1883, I proceeded to the residence of W. E. Hamilton, in the city of Shreveport, La., and made service of a copy of the within by handing same to Mrs. Sallie Hamilton, a resident at the domicil of said W. E. Hamilton and apparently over the age of 14 years.

(Signed) P. B. WEAKS,
D'y U. S. Marshal.

16 *Answer and Cross-Bill. Filed July 10th*, 1883.

United States Circuit Court, Western District of Louisiana.

JOHN F. WILLIAMS, Superintendent, &c.,
vs.
WILLIAM E. HAMILTON. } No. 10.

The answer and cross-bill of complaint of William E. Hamilton to the bill of complaint of John F. Williams, the complainant.

This defendant, now and at all times hereafter, saving and reserving unto himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainant's said bill of complaint contained, and for answer and cross-bill thereto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to answer or complain of, this defendant, answering and by cross-bill, saith that he hereby adopts all the com-
17 plaints and allegations of his bill of complaint made and filed herewith in the case of W. E. Hamilton *vs.* John F. Williams,

superintendent, &c., and numbered eleven on the chancery docket of your court, and the said bill is hereby made his answer and cross-bill of complaint in all matters and issues averred or set up in this cause.

And your defendant further complains, in addition to all matters averred in his said bill of complaint, that the note sued in this cause is prescribed and the mortgage presented is perempted, and your defendant pleads the prescription of five years against said note and the peremption of ten years against said mortgage.

And this defendant denies all of the bill in this cause charged without this answer and the aforesaid bill of complaint that is made a part of this answer and cross-bill, and denies that there is any other matter, cause, or thing in said complainant's bill of complaint contained material or necessary for this defendant to make answer unto and not herein—hereby well and sufficiently answered,
18 confessed, traversed, and avoided or denied, and is not true, to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall direct, and hereby prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

(Signed) LOONEY & CHILDERS,
ALEXANDER & BLANCHARD,
Solicitors for Def't.

UNITED STATES OF AMERICA,
Western District of Louisiana:

William E. Hamilton, being duly sworn, does depose and say that he is the defendant named in the foregoing answer subscribed to by him; that he has read the same and knows the contents thereof and of the bill annexed, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he verily believes each and several to be true.

(Signed) W. E. HAMILTON.

Subscribed and sworn to before me this 10th of July, 1883.

(Signed) J. B. SLATTERY,
19 *U. S. Commissioner, Western District of La.*

Bill of Complaint. Filed July 10th, 1883.

Circuit Court of the United States for the Western District of Louisiana.

W. E. HAMILTON
vs.
JOHN F. WILLIAMS *et al.* } No. 11.

To the judges of the circuit court of the fifth judicial circuit for the western district of Louisiana:

William E. Hamilton, a citizen of Caddo parish and the State of Louisiana, brings this his bill of complaint against James C. Weaks,

marshal for the western district of Louisiana, and against one John F. Williams, who claims to be superintendent of the insurance department of the State of Missouri, and a citizen of the State of Missouri, and thereupon your orator complains and says:

The said John F. Williams, claiming to be superintendent of the insurance department of the State of Missouri, did, on or about the — day of June, 1883, file a bill of complaint in your hon-
20 orable court, and in said bill he, said John F. Williams, complained and averred that by virtue of an indorsement to the Life Association of America, and by virtue of the insolvency of said Life Association of America, and by virtue of the laws of the State of Missouri providing for the liquidation of said Life Association of America, a corporation created by the laws of Missouri and having its residence in said State; and, further, by virtue of certain decrees of the courts of Missouri, that he, said John F. Williams, became the holder and owner of a certain promissory note and mortgage, executed by your orator on or about the 11th day of March, 1870, for the sum of thirty-eight hundred and fifty dollars, with eight per centum interest, and due twelve months from the date thereof.

Said note and an authentic copy of said mortgage is annexed to said bill; and your orator is informed and believes that said note and said copy of said mortgage is the only evidence of proof presented to your honor in verification of the facts, complaints, and prayers of said bill — complaint.

Your orator annexes said bill to this his complaint for cer-
21 tainty, and *and* complains that your honors, under these facts and the prayer of said bill, on the 28th day of June, 1883, gave a decree ordering that executory process issue as prayed for, according to law, and that on the 29th day of June, 1883, Jas. C. Weaks, the marshal of your court, delivered to your orator the command peremptory of your court; that within three days after the service of said peremptory command, if your orator did not pay the amount specified in the writ of seizure and sale granted on the accompanying bill of complaint, the property of your orator referred to in said bill of complaint would be sold according to law; said notice and command is also annexed hereto for certainty.

And your orator further complains and says that on the 7th day of July, 1883, said J. C. Weaks, the marshal of your court, in execution of said process, did seize and will advertise for sale, according to law, the property of your orator, to wit, lots thirteen, fourteen, and fifteen of block thirty-nine, in the city of Shreveport, together with all the improvements thereon; and your orator also annexes
22 hereto the official notice of seizure for certainty.

Your orator, further complaining, says that the said proceeding of the said John F. Williams and the said J. C. Weaks is unjust and contrary to all law and all principles of equity, and if not stayed by your honor's conservatory order and writ of injunction will work irreparable injury and damage to your orator:

First. Because said process, if not stayed by injunction, will forcibly drive your orator from the possession and ownership of his valuable property, worth eight thousand dollars, by an *ex parte*

proceeding that precluded your orator from answering or being heard, and denies and precludes all appeals and writs of error from your orders and decrees, a proceeding, however, consonant with the statutes of the State of Louisiana; but your orator complains — cannot lawfully or equitably be done in a court of chancery.

Second. Because said bill and claim of the said John F. Williams is made in a representative and fiduciary capacity, and no evidence or proof is presented or pretended of his authority as super-
23 intendent of the insurance department of the State of Missouri, and no proof that he is clothed with power or authority to hold, possess, control, or bring a suit and stand in judgment, as required by law, in order to obtain the executory proceeding in the State of Louisiana.

Third. Because your orator is instructed and believes and so says that he was and is prepared to show that the debt evidenced by said note and mortgage and said note and said mortgage never had a valid, legal, or equitable existence, because Robert H. Lindsay never had authority as president of the so-called Shreveport district, for said so-called Shreveport district never had a legal or corporate existence, and also the so-called Louisiana and Texas department of the Life Association of America never had a corporate existence, and also the said Life Association of America never had any authority to do a banking business or to loan money on interest or discount, and thereupon all *ultra vires* to loan money in discount or interest, or to take a note or to appear before a notary and accept a mortgage.

24 Fourth. And because if the debt evidenced by said note and mortgage ever had a legal valid existence the same had been long since extinguished in a just, legal, and equitable manner, as follows, to wit:

Your orator, complaining, avers that on or about the 14th day of July, 1869, that by a contract with the Life Association of America he took a policy of life assurance on his life for the benefit of his children in the amount of ten thousand dollars, which policy was designated as class A, No. 2822, the same being a non-forfeiting policy, to be fully paid up in ten years from said date; and your orator in good faith promptly met every obligation of his contract, paid all premiums promptly until on or about the sixth day of December, 1877, when, at the special instance and request of said Life Association of America, your orator consented to a reduction of his said policy to the sum of seven thousand five hundred dollars under the assurance of good faith of the perfect solvency of said cor-
25 poration, and that said policy so reduced would be fully paid, either at the death of your orator or in full on the 14th of June, 1884, and as a further consideration that your orator should be paid the further sum of — dollars, the net value of the amount of insurance then released and surrendered, and then, afterwards, your orator paid his premiums until the first day of August, 1879, when your orator paid his last premium, constituting his paid-up non-forfeitable policy of insurance. The amount paid by your orator to the Life Association being the sum of six thousand seven hundred and fifty-nine & $\frac{18}{100}$ dollars, and soon after the last and

full payment was made on said policy the Life Association of America forfeited its charter for insolvency, and became *cerititer mortems*, wholly unable to comply with its obligations in the premises, and the entire contract became null and void by default of said Life Association of America.

But your orator, further complaining, says that on or about the 11th day of March, 1870, relying on the representations of R. H. Lindsay and others, composing the so-called Shreveport district, and in good faith believing that said so-called Shreveport district *and in good faith believing that said so-called district* was a legal person and authorized to contract valid obligations, and believing that the Louisiana and Texas department was a legal person with power to contract obligations, and that the Life Association of America had the authority in law to loan money on discounts and interest, your orator received the amount of — dollars and gave the note and the mortgage annexed to the bill of complaint of said John F. Williams.

26

But your orator complains and says that it was then and there expressly stipulated, agreed, and understood between your orator and said Lindsay and the so-called Shreveport district that as long as your orator promptly paid his premiums on his said policy and interest on said note *that* no demand would be made for the payment of the principal thereof until either the death of your orator or until his endowment fell due, in 1884, and that the sole motive your orator had in receiving said money and giving his note and mortgage was to accept and avail himself of the equitable security offered him by said Shreveport district to insure the honest good faith and solvency of the Life Association of America to pay their obligations to him according to the tenor and effect of their policy to him in the premises.

27

And your orator, further complaining, says that the verbal and stipulated agreement above stated was intended to be fully consummated by a written agreement made and signed by J. B. Hood, as manager and president of the so-called Louisiana and Texas department, on the 16th day of April, 1870, and accepted by Robert H. Lindsay, as president of the Shreveport district, which contract is hereto annexed for certainty.

And, further, your orator shows that the president of the Life Association of America, on the 19th July, 1879, substantially admits the contract and right of your orator to apply this loan to the payment of his policy. The offical letter of the president of the Life Association of America is hereto annexed for certainty.

28

And your orator shows that on the 18th day of April, 1879, said Life Association of America officially recognized the right of your orator in the premises by an offer to apply the amount on said note to an offset on his policy, provided your orator would surrender his policy at the reduced value consequent upon the then insolvency of the corporation.

Your orator further claims and says that in 1875 he surrendered his original policy and received a policy for the reduced amount,

and after 1879, at the request of said Life Association, he forwarded to said insolvent corporation his reduced policy, together with the contract for the reduction of said policy, and the same is now in the possession of said corporation or its representatives, and your orator is unable to present the same to your honors.

29 Your orator complains that said Life Association of America, from 1875 and during said year, in obtaining the reduction of the policy of your orator, obtained the same for purposes of fraud, and all these representations were false and fraudulent and continued until after the actual forfeiture of their charter, 1879, and with the manifest intention of evading the just, lawful, and equitable effect of their obligation to apply said loan and note as an offset to the policy aforesaid.

Wherefore your orator pleads to be put in the same situation as he was in the beginning of his agreement with said Life Association of America, and pleads in compensation and reconvention said sum of six thousand seven hundred and fifty-nine & $\frac{18}{100}$ dollars, which in a legal, just, and equitable manner extinguishes the note and debt evidenced by said note and mortgage now sought to be enforced by said John F. Williams and said J. C. Weaks, marshal.

May it please your honors to grant to orator not only the
30 writ or writs of injunction, issuing out of and under the seal of your honorable court, to be directed to the said J. C. Weaks, marshal of your court, and to John F. Williams, as superintendent, as claimed, to restrain them from further proceedings in the premises against your orator, but also writs of subpœna of the United States of America, to be directed to said J. C. Weaks, marshal, and to said John F. Williams, personally to be and appear before your honors in this honorable court and then and there to answer all and singular the premises and abide such order and decree therein as to your honors seem meet.

And your orator shall ever pray.

(Signed) LOONEY & CHILDERS,
ALEXANDER & BLANCHARD,
Solicitors for Plaintiff.

UNITED STATES OF AMERICA,
Western District of Louisiana:

At the city of Shreveport, in the parish of Caddo and district aforesaid, this 10th day of July, 1883, personally appeared before
31 me, J. B. Slattery, United States commissioner for said district, the above and foregoing named William E. Hamilton, and made oath that the facts in the foregoing bill, so far as they purport to be stated as of his own knowledge, are true, and so far as they purport to be stated on information and belief he believes it to be true.

(Signed) W. E. HAMILTON.

Given under my hand this 10th day of July, 1883.

[SEAL.] (Signed) J. B. SLATTERY,
U. S. Commissioner, Western District of Louisiana.

Order on Bill.

Let writs of injunction issue as prayed for according to law, and let a subpœna be issued against the defendant, Jno. F. Williams, of the State of Missouri, returnable on Monday, October 1st, 1883, and let such subpœna be served on him, together with a copy of plaintiff's bill of complaint, by the U. S. marshal or his deputy in and for the dist. court, having jurisdiction in the State of Missouri,
32 city of Saint Louis, or by any competent person, and it is ordered that when proof of the service of the process aforesaid shall be made it shall be held sufficient to bring said defendant into court for all purposes of this writ.

Thus done and signed in chambers this the 10th day of July, 1883.

(Signed) ALECK BOARMAN.
U. S. Judge.

Writ of Injunction. Issued July 11th, 1883.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit, Western District of Louisiana.

JOHN F. WILLIAMS, Sup't of Ins. Dep't,
vs.
WILLIAM E. HAMILTON. } No. 11.

The President of the United States to John F. Williams, sup't of the insurance department of the State of Missouri, and a citi-
33 zen of the State of Missouri and residing in the city of St. Louis, in the State of Missouri, Greeting:

You are hereby enjoined, restrained, and strictly prohibited from *the* further proceeding in the sale of the following-described property, to wit: Lots No. thirteen, fourteen, and fifteen (13, 14, & 15), in block No. thirty-nine (39), in the city of Shreveport, State of Louisiana, together with all the buildings and improvements thereon, seized as the property of William E. Hamilton, defendant in the above-entitled suit, until the further order of the court.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, at the city of Shreveport, this 11th day of July, in the year A. D. 1883, and the 107th year of the American Independence.

[SEAL.] (Signed) J. W. WHEATON, *Clerk.*

Marshal's Return.

UNITED STATES OF AMERICA,
Eastern District of Missouri, } ss:

34 I return on this writ that I have executed the same by delivering a copy of the same, and also a copy of the defendant's, William E. Hamilton's, answer and cross-bill in the said cause

of John F. Williams, superintendent, &c., *vs.* William E. Hamilton, to the within-named plaintiff, John F. Williams, superintendent of the insurance department of the State of Missouri, on this July 19th, A. D. 1883, at the city of St. Louis and within the above-named district.

(Signed) FELIX COSTE,
U. S. Marshal, East. Dist. of Mo.,
By PAUL F. COOK, *Deputy.*

Subpœna in Chancery to John F. Williams. Issued July 11th, 1883.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the district of Missouri or any competent private person, Greeting:

35 You are hereby commanded to summon John F. Williams, superintendent of the insurance department of the State of Missouri, and a citizen of said State of Missouri, to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit court to be holden at the city of Monroe, La., on the first Monday of October, 1883, then and there to answer a bill in chancery filed against him and others, wherein William E. Hamilton is complainant and said John F. Williams, sup't, &c., and James C. Weaks, U. S. marshal western district of Louisiana, are defendants.

Herein fail not, and have you then and there this writ with your endorsement thereon how you have executed the same.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, at the city of Shreveport, this 11th day of July, in the year of our Lord 1883, and the 107th year of the American Independence.

[SEAL.] (Signed) J. W. WHEATON, *Clerk.*

36 The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of October, 1883; otherwise the bill may be taken *pro confesso.*

(Signed) J. W. WHEATON.

Marshal's Return.

UNITED STATES OF AMERICA,
Eastern District of Missouri, } *ss:*

I return on this writ that I have executed the same by delivering a copy of the same, with a copy of the bill in said cause attached, to the within-named John F. Williams, superintendent of the insurance department of the State of Missouri, on the July 19th, A. D. 1883, in the city of St. Louis and within the above named district.

(Signed) FELIX COSTE,
U. S. Marshal, Eastern District of Missouri,
By PAUL F. COOK, *Deputy.*

37 *Answer. Filed February 9th*, 1884.

WILLIAM E. HAMILTON
vs.
JOHN F. WILLIAMS *et al.* } No. 11.

To the honorable the judges of the circuit court of the United States for the fifth judicial circuit, sitting and presiding at Shreveport, for the western district of Louisiana:

The answer of John F. Williams, superintendent of the insurance department of the State of Missouri, to the bill of complaint heretofore filed in this court by William E. Hamilton, complainant, respectfully shows that he is now and was, at the time this suit was instituted, a citizen of the State of Missouri; that under section 6043 of the Revised Statutes of the State of Missouri, in effect August, 1879, "Upon the rendition of a final judgment dissolving a company (meaning an insurance company) or declaring it insolvent, all the assets of such company shall vest in fee simple and absolutely in the superintendent of the insurance department
38 of the State of Missouri and his successor or successors in office, who shall hold and dispose of the same for the use and benefit of the creditors of such company and such other persons as may be interested in such assets."

That at the date of the dissolution of said Life Association of America one W. S. Relfe, who was then and ever since has been a citizen of the State of Missouri, was such superintendent, duly appointed and qualified, and that this respondent is the successor of said W. S. Relfe, the former superintendent of the insurance department of the said State, as will appear from a certified copy of his commission filed in this court in the suit of R. H. Lindsey *vs.* John F. Williams, sup't &c., and made a part of this answer to be used on the trial of the same; that by virtue of a decree entered in suit No. 51556 on the docket of the circuit court of the city of Saint Louis, in the State of Missouri, wherein said William S. Relfe, as superintendent of the insurance department, was plaintiff
39 and the said Life Association of America was defendant, on the 10th day of November, 1879, the said Life Association of America, a corporation, and as such a citizen of the State of Missouri, theretofore duly incorporated as a purely mutual company, authorized to do a business of life insurance upon the mutual plan only and all business necessarily connected therewith, under the laws of Missouri, was dissolved, and by said decree, among other things, it was named that the said Life Association "convey, assign, transfer, and deliver over to said William S. Relfe, superintendent of the insurance department of the State of Missouri (and a citizen of the State of Missouri), all the property, real, personal, and mixed, wheresoever found, whether in this State (meaning the State of Missouri) or elsewhere, and all contracts and all other legal and equitable interests, things in action, and other effects which belong to or were held in trust for the said defendant, The Life Association of America, or in which it had any beneficial

40 interest, in the same condition they were at the time of the commencement of said suit (the 13th day of October, 1879), or in which it now has any interest;" that in accordance with the terms of said decree deeds of assignment were made by said Life Association of America conveying, assigning, and transferring to said Relfe, as superintendent of the insurance department of the State of Missouri, all the said property on the 10th day of November, 1879, and all of said property then owned by said Life Association of America, of whatever kind, was then duly transferred to said Relfe as such superintendent; that among the property so conveyed, assigned, and transferred was embraced all the property of said association in the State of Louisiana, as well that situate in the city of Shreveport as *well as* elsewhere in said State; that some time prior to said assignment, to wit, on the 13th day of October, 1879, the right to the possession of said property of every
41 description whatsoever and wheresoever situated had been vested in one D. M. Frost, a citizen and resident of the city of Saint Louis, in the State of Missouri, as temporary agent, appointed and designated by the said circuit court until a final decree should be rendered in said cause; and that afterwards, to wit, upon November 10th, 1879, when final decree was so rendered therein as aforesaid, said Frost delivered the possession of said property to said Relfe, as superintendent as aforesaid, and all rights and duties of said Frost in connection therewith then ceased; that in accordance with the terms of said decree all the bonds, bills, choses in action, and notes, together with the small deeds of trust and mortgages securing them, particularly the one executed by William E. Hamilton, were duly transferred to said Relfe as such superintendent and delivered to said Relfe as such superintendent, and at the close of his term of office were duly transferred
42 and delivered by him to this respondent as his successor, who now owns and holds them, and particularly the note and mortgage executed by said William E. Hamilton as the legal representative and successor of said corporation.

That the legal title and right to the possession of said note and mortgage executed by said William E. Hamilton continued in said Relfe, during his term of office and has vested in this respondent as his successor in office, who is now and at all times herein mentioned has been a citizen of the State of Missouri.

Respondent avers that he is a statutory trustee and the legal representative and successor of the said dissolved corporation, the Life Association of America, and by virtue of the organic laws governing said corporations, as also by virtue of the laws of Missouri and the decree of said court, clothed with full power and authority under the Revised Statutes and laws of the State of Missouri to col-
43 lect all assets of the said dissolved association as an officer of the State of Missouri and as trustee of an express trust.

And respondent, for further answer to said bill, says that, as the superintendent of the insurance department of the State — Missouri and as the holder and owner of the said note and mortgage as aforesaid executed by said William E. Hamilton, he did file a bill of

complaint in this hon. court in the nature of a proceeding *via executiva* in the State courts of Louisiana to have seized and sold the property described in plaintiff's bill of complaint for the satisfaction of his said debt vested in him as aforesaid, and avers that said proceeding was strictly in accordance with law and equity and the rules of practice in this honorable court; that in accordance with the facts and the prayer of said bill of complaint your honor did, on or about the — day of June, 1883, order that executory process issue as
44 prayed for and according to law, and that he is informed that on or about the 29th day of June, 1883, James C. Weaks, the United States marshal for the western district of Louisiana, delivered to the plaintiff the peremptory command of your honor, as one of the judges of this hon. court, and that in accordance with law, if within three days the plaintiff herein did not pay the amount specified in the writ of seizure and sale, he would sell the property described in said *suit* as the law directed him to do.

And respondent, for further answer, denies that his said proceeding and the conduct of the said J. C. Weaks, United States marshal, was unjust and contrary to law and principles of equity, but affirms that both were strictly in accordance with law and equity as practiced in this honorable court, and denies that plaintiff was or is entitled to any process to arrest this respondent in the execution of his strict rights.

Respondent affirms that he was proceeding strictly according to the rules of chancery as recognized by the Supreme Court of
45 the United States, and that the process issued in said cause was upon and after examination of his bill of complaint exhibited in this hon. court and filed before said process was ordered by your honor, acting as a judge of the circuit court; that all the proof which was requisite as to his being an officer of the State of Missouri and superintendent of the insurance department was first exhibited in his said bill of complaint.

Respondent, for further answer, affirms the validity of the note and mortgage sued on, and denies that he ever contended that there was any such corporation presided over by Daniel B. Martin or any one else, and known as the Shreveport district or the Louisiana and Texas department of the Life Association of America, but affirms that the Life Association of America was a corporation organized and doing business under the laws of Missouri as a purely mutual life insurance company, and had its chief places of business in Saint Louis, Missouri, and had branch departments in several States, but avers that they, and particularly the Shreveport or Louisiana and Texas department, were all under the
46 absolute control and authority of the parent office at Saint Louis and subject to the control, management, and direction in all things of the general board of directors of said company at Saint Louis, at its chief office; that said departments, and particularly the Louisiana and Texas department, were mere agencies with limited and prescribed powers, subject to change, modification, or abolishment at any time by said general board of directors.

Respondent, for further answer, saith that the said corporation,

the Life Association of America, never did a banking business, and in its business in the department of Louisiana and Texas acted strictly within its scope, and, as authorized by law and at the time of making said loan, had by its charter full power to make such loan and to take mortgages and deeds of trust on real estate to secure the payment of the same, and that its loan to said William E. Hamilton and taking security for the payment thereof was not *ultra vires*, and that it could appear through its proper agent before a notary public and accept a mortgage.

47 And respondent, further answering, denies that said note and mortgage have been extinguished in any way, and particularly in the form and manner as alleged in paragraph fourth, on the fifth page of complainant's bill, and requires strict proof thereof. Respondent avers that the old policy was taken up and a new one issued in perfect good faith, and that complainant was not in anything deceived, and that the policy issued and accepted by said plaintiff cannot be attacked for any such causes as set forth in plaintiff's said bill.

Respondent shows that the insolvency of the said corporation, the Life Association of America, resulted from a general depreciation of its property and securities and not through any fault or negligence of said corporation or its officers, and that the contract made was a valid and subsisting one to be enforced against said corporation or its legal representatives.

And respondent, for further answer, saith that he denies that plaintiff can set up any verbal agreement made by plaintiff

48 with J. B. Hood, deceased, or with any one else, and denies the authority of said J. B. Hood to make any agreement such as is alleged by plaintiff; and further denies that the letter referred to contains any such admission as is pretended by plaintiff; and further denies that there was any official recognition by the Life Association of America of the right of plaintiff on the 18th day of April, 1879, as is pretended and alleged by plaintiff; and respondent denies that the policy held by plaintiff in 1875 was obtained from him by any fraud or ill practices, or that said corporation in its legal representation *have* been at any time guilty of fraud or fraudulent practices or intent, and requires strict proof of the same.

And respondent denies that compensation can be pleaded to his said debt sued on, and denies that said note is prescribed by any limitation, or that his mortgage has been peremptied.

Having fully answered, this respondent prays to have the injunction dissolved, and that the marshal, J. C. Weaks, be ordered to proceed with the sale of said property seized in accordance with law, and the complainant's bill be dismissed at complainant's

49 cost; and, as in duty bound, he will ever pray, &c.

(Signed) A. GOLDTHWAITE,
W. S. RELFE,
Solicitors for Resp't.

Commission of John F. Williams, Annexed to Answer.

The State of Missouri to all who shall see these presents, Greeting:

Know ye that I, Thomas T. Crittenden, Governor of the State of Missouri, having nominated John F. Williams superintendent of the insurance department, and the senate having consented to said appointment:

Now, therefore, I hereby appoint and commission said John F. Williams superintendent of the insurance department of the State of Missouri, and do authorize him to discharge according to law the duties of said office, and to hold and enjoy the same, with all the powers, privileges, and emoluments thereto appertaining, for the term of four years from and after the first day of March, 1881.

50 In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Missouri. Done at the city of Jefferson this 21st day of January, A. D. 1881, and of the Independence of the United States the 105th and of the State of Missouri the 61st.

(Signed) THOS. T. CRITTENDEN.

By the governor:

(Signed) MICH'L K. McGRATH,
Secretary of State.

STATE OF MISSOURI, *ss:*

I, Michael K. McGrath, secretary of state of the State of Missouri, hereby certify that the annexed pages contain a full, true, and complete copy of the commission issued on twenty-first day of January, eighteen hundred and eighty-one, to John F. Williams, as superintendent of the insurance department of the State of Missouri, as the same appears of record in my office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Missouri. Done at the city of Jefferson this 18th day of April, A. D. 1881.

[SEAL.] (Signed) MICH'L K. McGRATH,
Secretary of State.

51 *Consent to Consolidate. Filed May 5th*, 1884.

U. S. Circuit Court, Western District of Louisiana.

JOHN F. WILLIAMS, Superintendent, &c.,
vs.
WM. E. HAMILTON,
and
WM. E. HAMILTON
vs.
JOHN F. WILLIAMS.
} No-. 10 & 11.

We consent that all of the above numbered and entitled suits be consolidated and tried together.

April 24, 1884.

(Signed) ALEXANDER & BLANCHARD,
R. J. LOONEY,
Solicitors & Att'ys for W. E. Hamilton.

(Signed) J. S. YOUNG,
Solicitors & Att'ys for Petitioner & Plaintiff.

52 *Amended Bill of Complaint. Filed May 27th*, 1884.

To the hon. the judges of the circuit court of the United States for the fifth judicial circuit, western district of Louisiana, sitting at Shreveport:

The amended bill of complaint of John F. Williams, superintendent of the insurance department of the State of Missouri, with the leave of the court first had and obtained to file the same, respectfully shows that he is a citizen of the State of Missouri, residing at St. Louis, and that William E. Hamilton, the defendant herein, is a citizen of the State of Louisiana, residing at Shreveport; and your orator complains and says that on the eleventh day of March, 1870, by act passed before Charles William Lewis, recorder and *ex officio* notary public in and for the parish of Caddo, State of Louisiana, personally came and appeared William E. Hamilton and declared his indebtedness to the Shreveport district of
53 the Louisiana and Texas department of the Life Association of America, therein acting by its president, Robert H. Lindsay, who accepted the act of mortgage in the full sum of thirty-eight hundred and fifty dollars ($3,850) according to the tenor and effect of a certain promissory note, dated Shreveport, March 11th, 1870, payable to the order of W. E. Hamilton and by said W. E. Hamilton indorsed to the Life Association of America, due twelve months after date, with interest at the rate of eight per cent. per annum from maturity until paid, and paraphed *ne varietur* by said recorder to identify it with said act of mortgage; and to secure the payment of said note and all such eventual interest and costs as may accrue thereon the said William E. Hamilton did specially mortgage and hypothecate in favor of said Robert H. Lindsay, president as aforesaid, and also in favor of all future holders of said note, their heirs and assignees, the following-described property, to wit: Lots
54 No-. (13, 14, & 15) thirteen, fourteen, and fifteen, in block No.

thirty-nine (39), in the city of Shreveport, parish of Caddo, State of Louisiana, together with all the buildings and improvements thereon; that by said act of mortgage as aforesaid it appears that the payment of said note in capital and interest is secured by special mortgage on the property hereinabove described, and that by said act like mortgage is conveyed to secure five per cent. for attorney's fee on the amount sued for in the event of suit on said mortgage; that interest on said note has been paid up to the 11th day of March, 1879, and that said note is due and unpaid; that said mortgage contains the fact, *de non alienando*, that said mortgage was filed and recorded in the office of the recorder of mortgages for the parish of Caddo on the 11th day of March, 1870, and reinscribed in the office of the recorder of mortgages for the parish of Caddo on the 28th day of May, 1881; that said note
55 and mortgage were duly indorsed to the Life Association of America, and by the insolvency of the Life Association of America and its dissolution and the laws of the State of Missouri, under whose laws the said association was chartered, providing for the liquidation of said corporation and the decree of the courts of Missouri, the said note and mortgage vested in the superintendent of the insurance department of the State of Missouri; that your orator, as the superintendent of the insurance department of the State of Missouri, is the holder and owner of said note and mortgage. A copy of said mortgage and the note secured thereby are annexed to and made parts of the original bill filed herein, marked Exhibits A & B; that said note, with interest as aforesaid from the 11th day of March, 1879, and attorneys' fees as aforesaid, are due and unpaid, and that no proceedings at law have been taken to recover the debt secured by said note and mortgage or any part thereof.

Your orator therefore asks the aid of the court in the prem-
56 ses, and that the above-named William E. Hamilton, the defendant in this suit, may appear in this court of chancery and answer this, your orator's, amended bill of complaint, according to the rules and practice of the said court, without oath, his answer on oath being hereby waived, and that the proper and usual decree may be made for the sale of the mortgaged premises aforesaid, and for the payment of the amount due to your orator for principal and interest upon said note and mortgage and his costs of this suit, and that there be a decree for the full amount of the debt due your orator and against said William E. Hamilton to entitle your orator to an execution for the same under the rules of this court.

And that your orator may have such further and such other relief as the nature of the case may require and as to this court may seem proper and agre-able to equity.

(Signed) JOHN F. WILLIAMS,
57 *Superintendent of the Insurance Dep't of the State of Missouri.*

(Signed) A. GOLDTHWAITE,
WM. S. RELFE,
JNO. S. YOUNG,
Sol's for Compl't.

UNITED STATES OF AMERICA,
Eastern District of Missouri, } ss:

John F. Williams, being duly sworn, deposeth and saith that he is the complainant in the foregoing bill named, and has read the same and knows the contents thereof; that the said bill is true of his own knowledge, except as to those matters which are therein stated to be on his information and belief, and as to those he believes it to be true.

(Signed) JOHN F. WILLIAMS,
Sup't Ins. Dep't of Mo.

STATE OF MISSOURI,
City of St. Louis, } ss:

Sworn to and subscribed before me this 20th day of May, A. D. 1884.

Witness my hand & official seal.

[SEAL.] (Signed) C. D. GREENE, JR.,
U. S. Comm'r.

58 *Order.*

Let this amended bill be filed.
May 22d, 1884.

(Signed) DON A. PARDEE, *Judge.*

Subpœna in Chancery. Issued May 28th, 1884.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the western district of Louisiana, Greeting:

You are hereby commanded to summon William E. Hamilton, of the city Shreveport, Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit court to be holden at the city of Shreveport, Louisiana, on the first Monday of July, 1884, then and there to answer an amended bill in chancery filed against him, wherein John F. Williams, sup't of the insurance department of the State of Missouri, is complainant and said William E. Hamilton is defendant.

59 Herein fail not, and have you then and there this writ with your endorsement thereon how you have executed the same.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, at the city of Shreveport, this 28th day of May, A. D. 1884, and the 108th year of American Independence.

[SEAL.] (Signed) J. W. WHEATON, *Clerk,*
By J. N. JACKSON, *D'y Cl'k.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of July, 1884; otherwise the bill may be taken *pro confesso.*

(Signed) J. W. WHEATON, *Clerk,*
By J. N. JACKSON, *D'y Cl'k.*

Marshal's Return.

Rec'd in office May 28th, 1884, and on the same day, month,
60 and year I made service by handing a certified copy of the within & petition attached *with* W. B. Hamilton, a person over the age of 14 years, at the residence of W. E. Hamilton, in the city of Shreveport, La.

(Signed) P. B. WEAKS,
D'y U. S. Marshal.

Answer to Amended Bill. Filed July 5th, 1884.

Circuit Court of the United States, Western District of Louisiana, at Shreveport.

JOHN F. WILLIAMS, Superintendent, &c.,
vs.
W. E. HAMILTON. } No. 10.

The answer of defendant, W. E. Hamilton, to the amended complaint and bill of John F. Williams, superintendent, the complainant.

Defendant, now and at all times hereafter, saving and reserving to himself all benefit and advantage which has been or may
61 be taken to all errors, imperfections, and uncertainties of said amended bill of complaint, and for answer denies all and singular the allegations therein, except what has been or may hereafter be specially admitted; and, adopting all allegations of his original answer, prays to be hence dismissed with costs.

(Signed) W. E. HAMILTON,
(Signed) ALEXANDER & BLANCHARD,
R. J. LOONEY,
Solicitors for Def't.

Agreement to Try in Chambers. Filed July 5th, 1884.

Circuit Court of the U. S., Western District of La. In Equity.

JOHN F. WILLIAMS, Sup't of the Insurance Dep't of the State of Missouri,
vs.
WILLIAM E. HAMILTON,
and
WILLIAM E. HAMILTON
vs.
JOHN F. WILLIAMS, Superintendent, *et al.* } Nos. 10 & 11.

Consolidated by consent of parties.

It is agreed by and between solicitors of parties that these
62 cases shall be consolidated and heard in chambers and submitted to the court as if the court was in regular session convened, and that the judgments shall be rendered at any time in va-

cation, and that motions for a rehearing shall or may be made by the parties cast upon 20 days' notice to the other party and all orders applied for in vacation as if this court was in regular session convened, sufficient notice being given to opposite party.

(Signed) A. GOLDTHWAITE,
WM. S. RELFE, AND
JNO. S. YOUNG,
Solicitors for John F. Williams, Superintendent, &c.

(Signed) ALEXANDER & BLANCHARD,
R. J. LOONEY,
Solicitors for Def't.

Note of Evidence Offered by Complainant, John F. Williams, Superintendent, &c. Filed July 5th, 1884.

U. S. Circuit Court, Western District of Louisiana.

63 JOHN F. WILLIAMS, Superintendent, &c.,
vs.
WILLIAM E. HAMILTON,
and
WILLIAM E. HAMILTON
vs.
JOHN F. WILLIAMS, Superintendent, &c.

Nos. 10 & 11. Consolidated.

Note of evidence offered by complainant, John F. Williams, superintendent, &c.

1. Original bill praying executory process; note attached thereto as exhibit and copy of mortgage attached as exhibit, together with order thereon of U. S. judge that executory process issue as prayed for. (Transcribed on pages 1 & 10 of this transcript.)

2. Three days' notice issued thereon by clerk of court and return. (Transcribed on page 10 of this transcript.)

3. Writ of seizure & sale and return thereon made by U. S. marshal. (Transcribed on page 12 of this transcript.)

4. Answer and cross-bill of W. E. Hamilton; filed July 10th,
64 1883. (Transcribed on page 16 of this transcript.)

5. Amended bill of complaint, filed May 27th, 1884, with the order thereon. (Transcribed on page- 52 & 58 of this transcript.)

6. Subpœna in chancery to W. E. Hamilton, May 28th, 1884, and return thereon, May 29th, 1884. (Transcribed on page 58 of this transcript.)

7. Answer to amended bill by W. E. Hamilton; filed July 5th, 1884. (Transcribed on page 60 of this transcript.)

8. Evidence of W. E. Hamilton, taken by consent. (Transcribed on page 66 of this transcript.)

9. Bill of complaint, filed by W. E. Hamilton July 10th, 1883, and No. 11 on docket of court, and order of court thereon. (Transcribed on page 19 of this transcript.)

10. Subpœna to John F. Williams, sup't, &c., 11th July, 1883, to-

gether with the return thereon by U. S. marshal. (Tran-
65 scribed on page 34 of this transcript.)

11. Writ of injunction issued on the 11th July, 1883, with the marshal's return. (Transcribed on page 32 of this transcript.)

12. Answer of John F. Williams, sup't, &c., to bill; filed Feb'y 9th, 1884. (Transcribed on page 37 of this transcript.)

13. Deposition of John F. Williams, taken before C. D. Green, special commissioner, and Exhibits A, B, C, D, E, F, & G, attached thereto. (Transcribed on pages 99, 116, 119, 121, 131, 138, 141, 144 of this transcript.)

14. Amended charter of the Life Association of America, approved July 12, '77. (Transcribed on page 149 of this transcript.)

15. Amended charter of the Life Association, approved Sept'r 30th, 1872. (Transcribed on page 163 of this transcript.)

16. Articles of association of the Life Association of America, with certificate of Jno. F. Williams, superintendent. (Transcribed on page 186 of this transcript.)

66 17. The amended charter of the Life Association of America, approved Oct. 2d, 1869, with certificate of Jno. F. Williams, sup't, &c. (Transcribed on page 195 of this transcript.)

18. Amended charter of the Life Association of America, approved November 17th, 1874. (Transcribed on page 239 of this transcript.)

Evidence of W. E. Hamilton, Taken by Consent. Filed July 5th, 1884, and Made Part of Foregoing Note of Evidence.

United States Circuit Court, Western District of Louisiana, at Shreveport.

JOHN F. WILLIAMS, Superintendent, &c., *vs.* WILLIAM E. HAMILTON, } No. 10.

and

WILLIAM E. HAMILTON *vs.* JOHN F. WILLIAMS. } No. 11.

Testimony of William E. Hamilton, taken by consent.

67 William E. Hamilton, sworn, says that on the 11th day of March, 1870, he executed the note and mortgage annexed to record in suit No. 10, entitled John F. Williams, superintendent, *vs.* William E. Hamilton, but the contract on which said note and mortgage were given and all the negotiations that led to said contract *was* had by witness with Robert H. Lindsay, who was acting as president of the Shreveport district of the Louisiana and Texas department of the Life Association of America, which said Shreveport branch was created by the agreement and contract with one John B. Hood before the giving of said note and mortgage, which agreement, with its obligations and purposes, was reduced to writing and signed after the giving of said note and mortgage, to wit,

on the 16th day of April, 1870, and accepted the 4th day of May, 1870; said agreement he annexes as Exhibit 1.

That his giving said note and mortgage and all the negotiations that led to the giving the same were based on the belief, representations, and understanding of the good faith of the Life Association in the rights and reservations stipulated by said Hood, their agent, before his note was given, and afterwards reduced to writing.

68

Further, at the time and before his said note was given his life was insured, and he held an endowment policy of said Life Association, to wit, No. 2822, for the sum of $10,000, and witness was authorized to a preference in borrowing money from said association, and that he made his said note, and the said Shreveport branch or district discounted his said note out of the premiums in the possession of said branch, and that he never would have given said note had he not been a policy-holder as aforesaid.

Witness states that in good faith, and never having heard or intimated that the Life Association disputed the authority of J. B. Hood, their agent, that he paid in cash to Thomas Phillips, secretary of the aforesaid Shreveport district, and to R. H. Lindsay, president of said district, and to Sam'l Flower, secretary of the Louisiana department, on his said policy the sum of $6,949.12, as shown by the annexed receipts, Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and that his said policy was paid up in full.

69

But witness states that in December, 1877, at the earnest request of his said company, he consented to a reduction of one-fourth of his said policy, and the net cash value of the interest thereon reduced was agreed to be worth in cash $1,635.22, and that no part thereof has ever been paid to witness.

In due course of mail witness received the three letters marked 13, 14, 15, which are annexed.

(Signed) W. E. HAMILTON.

Sworn to and subscribed before me this 5th July, 1884.

(Signed) J. W. WHEATON, *Cl'k.*

Contract Referred to in Foregoing Evidence and Filed July 5th, 1884.

This agreement, entered into between J. B. Hood, manager and president of the Louisiana and Texas department of the Life Association of America, party of the first part, and Robert H. Lindsay, president of the Shreveport district of said Louisiana and Texas department, party of the second part, witnesseth:

70

First. That the president, secretary, directors, and trustees of said Shreveport district are hereby constituted the agents of the Life Association of America for the transaction of the business of said Life Association of America *for the transaction of the business of said Life Association of America*, under the provisions of this agreement, within said district, the limits whereof are hereafter to be more definitely described.

Second. That the chief office of said district shall be at the city of Shreveport.

Third. That the business of the district shall be managed under the constitution, charter, by-laws, rules, and regulations of the association and the Louisiana and Texas department thereof, except in so far as they may conflict with the provisions of this agreement, by a board of trustees, citizens of the district and consisting of
71 not less than (20) twenty nor more than one hundred (100).

Fourth. For the more efficient management of said business said board of trustees shall elect a board of directors of nine members and a president and a vice-president, who shall, *ex officio*, be members of said board.

Fifth. The board of directors shall elect a secretary, two medical examiners, and an attorney, resident at Shreveport.

Sixth. The net assets of the business of the district shall be invested and kept invested in the city of Shreveport, provided the proper securities, as designated by the amended charter of the association and this agreement, can be obtained, said net assets being the whole of the premiums received less the amount necessary to be held as a contingent fund to pay expenses and losses from year to year, as the same becomes due and payable, it being anticipated that such expenses and losses will not consume more than thirty
72 per cent. (30%) of said premium receipts; said thirty per cent. of premium receipts to be sent to the department office at New Orleans each month for the purpose above stated.

Seventh. Loans and investments are to be made by the board of directors of the Shreveport district, but no loan on real estate shall be made except upon improved unincumbered real estate having a cash value exceeding by two-thirds ($\frac{2}{3}$) the amount of the loan, and that the title to the same shall have been approved in writing by the attorney of the district. The investment securities shall, in accordance with the contract of the party of the first part with the parent office at St. Louis, be forwarded to the department office at New Orleans, to be there held under the control of the department board of directors, subject only to be withdrawn by the board of directors of the parent office, to an amount necessary to pay
73 its *pro rata* share of the entire losses of the association when and as they occur, from time to time, and for no other purpose.

Eighth. The secretary of the Shreveport district shall promptly deposit all moneys which may come to his hands, or to the office of said district, in some bank or banks or banking-house in the city of Shreveport as shall be selected for that purpose by the board of directors of said district, and the same shall not be drawn out except upon the proper order of the president of the district, duly attested by the secretary and authorized by the district board of directors. The secretary, being the receiver and disburser of all the moneys, shall execute a bond, with good and solvent sureties, to "The Life Association of America," in such penalty as the district board may require.

Ninth. The president of the district shall cause to be made by the

secretary of the district a monthly report of the business of
74 the district, according to such form as shall be furnished therefor, and such other report as may be required, to the department office.

Tenth. The total expenses of conducting the business of the Shreveport district, exclusive of the necessary stationery and printing material, which shall be supplied by the department office, shall not exceed a brokerage of ten per cent. (10%) on the first premiums (cash & loan) actually received on all policies issued to persons qualifying as trustees, and twenty per cent. (20%) on the amount actually received as first premiums and seven and one-half (7½) per cent. on the amount actually received as renewal premiums from year to year on all other ten payments and continued payment life and endowment policies, known as ordinary business, and twenty (20) per cent. on the amount actually received as first premiums, and (5) per cent. on the amount actually received as renewal premiums on children's endowment policies, it being distinctly understood
75 that the expenses of the office, salaries, &c., of the district are to be paid out of the brokerage or commissions allowed as above.

Eleventh. The board of trustees of the Shreveport district may make, alter, and annul this and any other contract with the party of the first part by a majority vote of the trustees of said district present at any meeting which shall have been duly called for that purpose: Provided, however, That no such contract shall be made, altered, or annulled without the consent of a majority of the department board of directors.

This signed and executed by the party of the first part, at the city of New Orleans, on the sixteenth day of April, 1870, and by the party of the second part, at Shreveport, La., on the 4th day of May, 1870.

(Signed) J. B. HOOD,
Manager & Pres't La. & Texas Dep't.

(Signed) R. H. LINDSAY,
Pres't Sh'p't Dist.

Attest:
(Signed) SAM'L FLOWER, *Sec'y.*

MAY 4TH, 1870.

Accepted with the proviso that the collecting of the securi-
76 ties and loans of the Shreveport district shall be made through and under the direction and control of the officers of said district, and when collected shall remain in their charge and control as before investment.

(Signed) R. H. LINDSAY,
Pres't Sh'v'p't Dist.

Attest: —— ——.

Receipts Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, *&* 12, *Annexed and Referred to — the Evidence of W. E. Hamilton and Filed July 5th*, 1884.

A.

OFFICE OF THE LIFE ASS'N OF AMERICA,
ST. LOUIS, MO., *August* 1, 1878.

Policy No. 2822.

Old loan	$2,153 90
Current do.	219
Total present do.	2,372 90
Annual premium	$658 35
Less current loan	219
	439 35
Int. on total	189 83
Total cash pay't	629 15

Rec'd above paym't this 10th day of Aug., 1878.
THOMAS PHILLIPS,
Secretary.

Due this day, payment as per margin, to insure the life of Wm. E. Hamilton under policy No. 2822 until 12 o'clock noon of the first day of August, 1879.

(Signed) H. W. HOUGH,
President.
(Signed) J. D. C. HENRIQUEZ,
Secretary.

77 Receipt No. 3.

A.

OFFICE OF THE LIFE ASS'N OF AMERICA,
ST. LOUIS, MO., *August* 1, 1879.

Policy No. 2822.

Old loan	$2,372 90
Total loan	$2,372 90
Int. on total loan	$189 83
Total cash pay't	189 83

Received above amount this 1st day of Aug., 1879.
THOMAS PHILLIPS, *Sec.*

Due this day, payment as per margin, to insure the life of William E. Hamilton under policy No. 2822 until 12 o'clock noon of the first day of August, 1880; authority is given, &c.

(Signed) H. W. HOUGH,
President.
(Signed) J. D. C. HENRIQUEZ,
Secretary.

Receipt No. 4.

THE LIFE ASSOCIATION OF AMERICA,
ST. LOUIS, *July 14th*, 1869.

Received from Wm. E. Hamilton, of Shreveport, La., the sum of nine hundred and one $\frac{16}{100}$ dollars as the first annual premium on policy No. 2822 on life of himself, which continues said policy in force until July 14th, 1870.

Cash, $609.16, which includes interest on loan; loan, $292.

(Signed) H. W. HOUGH, *Pres't.*
" J. P. THOMPSON, *Sec'y.*

78 Endorsed: Countersigned by Sam'l Flower, sec'y La. department, this 19th day of July, 1869.

79

Statement.

Renewal of policy No. 2822.

Cash		$585 80
Loan		292
		$877 80
To collect:		
Cash part of premium		$585 80
Interest on loan		46 72
Total		$632 52

Receipt No. 5.

The Life Association of America hereby acknowledges having received the sum of ten hundred and twenty-four $\frac{52}{100}$ dollars for payment in full — annual premium on policy No. 2822 on the life of William E. Hamilton, which continues said policy in force (each of its other conditions having been duly observed) to July 14th, A. D. 1871.

Not valid unless countersigned.

(Signed) H. W. HOUGH, *President.*
W. HAULEY, *Secretary.*

Endorsed: Countersigned by R. H. Lindsay this 14th day of July, 1870.

80

Statement of Settlement of July, 1871.

Renewal of policy No. 2822.

Cash		$585 80
Current loan		292
		$877 80
To collect.		
Cash part of premium		$585 80
Old loan	584	
Current loan	292	
	876	
Less div'd	191	
Total loan	685	
Int. on loan, 8 p'r ct.		54 80
Total cash to collect		$640 60

Receipt No. 6.

The Life Association of America hereby acknowledges having received the sum of nine hundred and thirty-two $\frac{60}{100}$ dollars for payment in full of annual premium, as per marginal statement, on policy No. 2822 on the life of Wm. E. Hamilton, which continues said policy in force (each of its other conditions having been duly observed) to July 14, A. D. 1872.

Not valid unless countersigned.

(Signed) H. W. HOUGH, *President.*
W. HAULEY, *Secretary.*

Endorsed: Countersigned by R. H. Lindsay 14th day of July, 1871.

81

Statement of Settlement of July, 1872.

Renewal of policy No. 2822.

Cash		$585 80
Current loan		292
		$877 80
To collect:		
Cash part of premium		$585 80
Old loan	685	
Current loan	292	
	977	
Less	46 80	
Total loan	930 20	
Int. on loan, 8 per ct.		74 42
Total cash to collect		$660 22

Receipt No. 7.

The Life Association of America hereby acknowledges having rec'd the sum of nine hundred & fifty-two $\frac{20}{100}$ dollars for payment in full of annual premium (as per marginal statement) on policy No. 2822 on the life of W. E. Hamilton, which continues said policy in force (each of its other conditions having been duly observed) to July 14th, A. D. 1873.

Not valid unless countersigned by—

(Signed) H. W. HOUGH,
Vice-President.
W. HAULEY, *Secretary.*

Endorsed: Countersigned by R. H. Lindsay this 13th July, 1872.

82 Receipt No. 8.

OFFICE OF THE LIFE ASSOCIATION OF AMERICA,
ST. LOUIS, Mo., *July* 14, 1873.

Due this day, payment as per margin, to insure the life of Wm. E. Hamilton for one year from the date hereof under policy No. 2822.

(Signed) H. W. HOUGH, *President.*
(Signed) J. S. PIERCE, *Secretary.*

Policy No. 2822.]

Old loan		$930 20
Current loan		292
Total present loan		1,222 20
Annual premium	877 80	
Less curre't loan	292	
		585 80
Int. on curr't loan, at 8 ⅌		97 78
Total cash paym't		683 58

Received above amount this 14th day of July, 1873.
THOMAS PHILLIPS,
Secretary S. D.

83 Receipt No. 9.

D.

OFFICE OF THE LIFE ASS'N OF AMERICA,
ST. LOUIS, Mo., *July* 14, 1874.

Due this day, payment as per margin, to insure the life of W. E. Hamilton under policy No. 2822 until 12 o'clock noon on the first day of August, 1875.

(Signed) H. W. HOUGH, *President.*
(Signed) J. S. PEIRCE, *Secretary.*

Policy No. 2822.

Old loan	$1,222 30	
Less dividend	140	
		1,082 20
Current loan		292
Total present loan		1,374 20
Less current loan		585 80
Int. on total present loan		109 88
Total cash payment		$695 68

Received above amount this 14 day of July, 1874.
THOMAS PHILLIPS,
S. D. Secretary.

84 Receipt No. 10.

D.

OFFICE LIFE ASSOCIATION OF AMERICA,
ST. LOUIS, Mo., *August* 1*st*, 1875.

Due this day, payment as per margin, to insure the life of William E. Hamilton under policy No. 2822 until 12 o clock noon on the first day of Aug't, 1876.

(Signed) H. W. HOUGH, *President.*
(Signed) J. S. PIERCE, *Secretary.*

Policy No. 2822.

Old loan	$1,373 50	
Less dividend	44 40	
		1,329 10
Current loan		292
Total present loan		1,621 10
Prem	877 80	
Less cr't loan	292	
		585 80
Int. on total present loan		129 69
Total cash pay't		715 49

Received above amount this 22d day of July, 1875.
THOMAS PHILLIPS,
Sec. S. D.

85 Receipt No. 11

D.

OFFICE OF THE LIFE ASSOCIATION OF AMERICA,
ST. LOUIS, Mo., *August* 1, 1876.

No. 2822.

Old loan	1,621 10	
Less div'd	51 20	
		1,569 90
Current loan		292
Total present loan..		1,861 90
An. premium	877 80	
Less current loan	292	
		585 80
Int. on total present loan		148 95
Total cash payment		734 75

Received above amount this 1st day of August, 1876.
THOMAS PHILLIPS,
Secretary.

Due this day, payment as per margin, to insure the life of Wm. E. Hamilton under policy No. 2822 until 12 o'clock noon of the first day of August, 1877.

(Signed) H. W. HOUGH, *President.*
(Signed) J. S. PIERCE, *Secretary.*

86 Receipt No. 12.

A.

OFFICE OF THE LIFE ASSOCIATION OF AMERICA,
ST. LOUIS, Mo., *August* 1*st*, 1877.

Policy No. 2822.

Old loan		1,861 90
Current loan		292
Total present loan..		2,153 90
Annual prem	877 80	
Less current loan	292	
		585 80
Int. on total present loan		172 31
Total cash payment		758 11

Received above amount this 1st day of Aug., 1877.
THOMAS PHILLIPS, *Sec.*

Due this day, payment as per margin, to insure the life of Wm. E. Hamilton under policy No. 2822 until 12 o'clock noon on the first day of August, 1878.

(Signed) H. W. HOUGH, *President.*
(Signed) J. S. PIERCE, *Secretary.*

87 *Letters* 13, 14, *&* 15, *Referred to in Evidence of W. E. Hamilton and Filed July* 5*th*, 1884.

Letter 13.

TREASURER'S OFFICE,
LIFE ASSOCIATION OF AMERICA,
ST. LOUIS, *March* 18*th*, 1879.

W. E. Hamilton, Esq., Shreveport, La.

D'R SIR: Yours of the 14th inst. is received and contents noted I submitted your letter to our president and am authorized to make you the following proposition, to wit:

The reserve value of your policy # 2822, for $7,500, is	$5,510 62
Less policy loan thereon	2,372 90
Net value	$3,137 72

Your real estate loan due us amounts to $3,850, on which interest is paid up to the present month. I am authorized to offer you in payment of the loan the full reserve on your policy, viz., $3,137.72, the balance of $712.28 due us to be paid in cash.

We are aware that you acted liberal in giving up 25% of
88 your policy at the time the company were in need of it, but your action was also prudent on your part and for your interest, which you, as a good business man, saw at once. We, on our part, desire now to go as far as we possibly can in justice to others to allow you the greatest value for your policy in settlement for the loan. For cash, if we were purchasing our policies, we could purchase them at about 60% of what we offer to you.

Our experience with loans in Shreveport, Jefferson, Texas, and in fact all over the South, is very discouraging. The tendency of the people there to repudiate their State and municipal debts must necessarily have a very bad effect upon the value of all sorts of property; it will drive foreign capital from such States and thereby create panic, from which there will be a very slow recovery. This is one of the reasons which move the board of directors to call in loans and to liquidate our business in that region.

I hope you will find our proposition fair and liberal, and that you will avail yourself of it.

89 Yours truly,

(Signed) FELIX COSTE, *Treas.*

Letter No. 14.

TREASURER'S OFFICE,
LIFE ASSOCIATION OF AMERICA,
ST. LOUIS, *April 18th*, 1879.

W. E. Hamilton, Esq., Shreveport, La.

DEAR SIR: The bank at Shreveport returned your note and loan papers unpaid, stating that you had written that to me on the subject. The last letter which I received from you was dated March 14, '79, to which I replied on the 18th of the same month, conveying to you a proposition from the committee for the purchase of your policy # 2822 in part liquidation of your debt on acc't of the real estate loan.

My offer was $3,137.72 net for the surrender of your policy, which would leave a balance due us on the loan of $712.28.

The amount offered for the policy is the full reserve on the same.

I will thank you for an answer to my proposition so as to
90 enable me to report to the committee, who desire to settle this matter, if possible, without any expense or annoyance to you, but we have to do something to bring it to a close.

Yours truly,

(Signed) FELIX COSTE, *Treas.*

Letter No. 15.

TREASURER'S OFFICE,
LIFE ASSOCIATION OF AMERICA,
ST. LOUIS, *July 19th*, 1879.

W. E. Hamilton, Esq., Shreveport, La.

D'R SIR: Your letter of the 16th to Treas. Coste was received this morning.

I do not think you are correct in the views you express as being entitled in equity to an additional am't on account of your policy. When the law was passed in this State increasing the reserve of company we sought to have parties surrender a portion of their ins. that the association might be brought into line. Some that were approached declined; others, like yourself, consented, and finally enough did reduce their insurance to place the association in
91 line.

We have been able to keep the association in line, but nothing more; consequently there has been no dividend to declare to those who make a surrender of a portion of their insurance. Had our losses been light and our litigation terminate- favorably to the association we might in time been able to have returned the value of the insurance you surrendered. Everything was done fairly, and by reading the papers you have with your policy you will find it so. The association needs to collect in its loans or reduce the risks; hence our proposition to allow you a large value for your policy to be applied to your loan.

It is immaterial to the association whether you apply your policy value towards canceling your loan or whether you pay your loan, retaining the policy.

Please let me hear from you.

Yours truly,

(Signed) H. W. HOUGH, *Pres't.*

Agreement Referred to and Made Part of Evidence of Wm. E. Hamilton and Filed July 5th, 1884.

92 Know all men by these presents that the Life Association of America Insurance Company of the City of St. Louis, in the State of Missouri, having been admitted or having applied for admission to transact business in the State of Louisiana in conformity with the laws thereof, does hereby make, constitute, and appoint John B. Hood, Esq., of the city of New Orleans, parish of Orleans, its true and lawful attorney in and for the said State of Louisiana, *on* whom all process of law, whether mesne or final, against said insurance company may be served in any action or special proceedings against said company in the State of Louisiana, subject to and in accordance with all the provisions and statutes and laws of said State of Louisiana in force and such other acts as may hereafter be passed amendatory thereof and supplementary thereto; and the said attorney is hereby duly authorized and empowered as the agent of said company to receive and accept service of process in all cases as pro-

vided for by the laws of the State of Louisiana, and such service
93 shall be deemed valid personal service on said company.
This appointment is to continue in force for the period of time and in the manner provided by the statutes of the State of Louisiana, and until said attorney shall be duly and regularly substituted

In testimony whereof the said company, in accordance with a resolution of the board of directors, duly passed on the 10th day of March, 1877, a certified copy of which is hereto attached, has to these presents affixed its corporate seal and caused the same to be subscribed and attested by its president and secretary, at the city of St. Louis, in the State of Missouri, on the 12th day of March, A. D. 1877.

H. N. HOUGH, *President*.
J. S. PIERCE, *Secretary*.

Certified copy of a resolution duly passed, by the board of directors of the Life Association of America Insurance Company on the 10th day of March, A. D. 1877.

At a meeting of the board of directors of the Life Association of America Insurance Company, held on the 10th day of March, A. D. 1877, at the office of the company, a quorum of said board was
94 present, and, on motion, the following resolution was duly passed by said board:

Resolved, That this company, having been admitted or having applied for admission to transact business in the State of Louisiana in conformity with the laws thereof, does hereby authorize the president and secretary, under the corporate seal of the company, to make, constitute, and appoint John B. Hood, Esq., of the city of New Orleans, its true and lawful attorney in and for the State of Louisiana, to whom all process of law, whether mesne or final, against said insurance company, may be served in any action or special proceedings against said company in the State of Louisiana, subject to and in accordance with all the provisions of the statute and laws of the State of Louisiana now in force, and such other acts as may hereafter be passed amendatory thereof and supplementary thereto, and the said attorney is duly authorized and empowered as the agent of the company to receive and accept service of process in all cases as provided by the laws of the State of Louisiana, and such service shall be deemed valid personal service upon said company.
95 Said appointment is to continue in force for the period of time and in the manner provided for by the statutes of the State of Louisiana and until another attorney shall be duly and regularly substituted.

I hereby certify that the above is a correct copy of the vote or resolution of the directors of the said company authorizing the appointment of an attorney for the State of Louisiana.

(Signed) J. S. PIERCE, *Secretary*.

STATE OF MISSOURI, } ss:
City of St. Louis, }

On this twelfth day of March, A. D. 1877, before me, the subscriber, a commissioner for the State of Louisiana, duly appointed to take the proof and acknowledgment of deeds and other instruments, came Henry W. Hough, president, and J. S. Pierce, secretary, of the Life Association of America Insurance Company, to me personally known to be the individuals described in and who executed the preceeding instrument, and they each duly acknowledged the execution of the same, and, being by me each duly sworn,
96 severally and each for himself deposeth and saith that they are the said officers of the insurance company aforesaid, and that the seal affixed to the preceeding instrument is the corporate seal of the said company, and that the said corporate seal and their signature- as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation.

In testimony whereof I have hereunto set my hand and affixed my official seal, at the city of St. Louis, the day and year first above written.

(Signed) C. D. GREEN, JR.,
Commissioner of Louisiana at St. Louis City, Missouri.

Filed March 16th, 1877.

OSCAR ARROYO,
Ass't Secretary of State.

STATE OF LOUISIANA,
OFFICE OF THE SECRETARY OF STATE.

I, the undersigned, secretary of state of the State of Louisiana, do hereby certify that the above and foregoing is a true and correct copy of the original on file and deposited in this office.
97 Witness my signature and the seal of the State of Louisiana, at the city of New Orleans, this third day of December, eighteen hundred and seventy-eight.

[SEAL.] (Signed) OSCAR ARROYO,
Ass't Secretary of State.

JOHN F. WILLIAMS, Sup't, &c., } Nos. 10 & 11.
vs. } Consolidated.
WILLIAM E. HAMILTON.

Solicitors for Williams, sup't, &c., object to so much of the testimony of W. E. Hamilton as refers to an agreement with one John B. Hood, and afterwards reduced to writing and signed as deposed to, because the same is incompetent, and objects to the filing of the said agreement made between said John B. Hood and Rob't H. Lindsay as irrelevant to the issue and incompetent, and, further, because the said William E. Hamilton, having set up compensation or set-off, admits the validity of the debt and is confined to proof of the set-off.

And, further, on cross-examination, said HAMILTON testified:

98 I paid interest on the note and mortgage sued on up to March 11th, 1879, as will appear from the indorsement on the note attached to the bill of complaint. I have not paid any portion of the principal of the note.

July 5th, 1884.

(Signed) W. E. HAMILTON.

It is agreed that the testimony of W. E. Hamilton, taken by consent, shall be taken subject to exception as if taken by commission.

(Signed) A. GOLDTHWAITE,
W. S. RELFE,
JNO. S. YOUNG,
Solicitors for Williams, Sup't of Ins. Dep't.

(Signed) ALEXANDER & BLANCHARD,
R. J. LOONEY,
Sol'rs for Def't.

99 *Deposition of John F. Williams, Taken under Commission, Referred to and Made Part of Complainant's Note of Evidence and Filed July 3d*, 1884.

Circuit Court of the United States for the Fifth Judicial Circuit, Holding Sessions in and for the Western District of Louisiana.

To Charles D. Greene, Jr., in the city of St. Louis, State of Missouri:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you John F. Williams, sup't of the insurance department of the State of Missouri and a citizen of St. Louis, in said State, and him duly examine on the annexed interrogatories on oath touching and concerning certain matters and things in a case now depending in said court, wherein John F. Williams, superintendent of the insurance department of the State of Missouri, is plaintiff and William E. Hamilton, of Shreveport, La., is defendant, and the same examinations, so taken and re-

100 duced to writing, you certify under your hand and seal and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Shreveport, this 21st day of June, anno Domini 1884, and the 108th year of the Independence of the United States of America.

[SEAL.] (Signed) J. W. WHEATON, *Clerk.*

Interrogatories Annexed to Commission.

U. S. Circuit Court, Western District of Louisiana. In Equity.

JOHN F. WILLIAMS, Superintendent of the Insurance Department of the State of Missouri,
vs.
WILLIAM E. HAMILTON,
and
WILLIAM E. HAMILTON
vs.
JOHN F. WILLIAMS, Sup't, & JNO. C. WEAKS, U. S. Marshal.

Nos. 10 & 11. Consolidated.

Interrogatories propounded to John F. Williams, superin-
101 tendent of the insurance department of the State of Missouri, who resides in St. Louis, Missouri, a material witness in behalf of complain-t in the above-entitled causes, consolidated.

Interrogatory 1st. Where do you reside and of what State are you a citizen? What office do you hold in the State of Missouri? Please attach to your answer a duly certified copy of your commission.

Int. 2d. How long have you held such office, and who was your predecessor in said office?

Int. 3d. As the superintendent of the insurance department of the State of Missouri are your duties prescribed by law? If so, please state under what law, and refer to it particularly in your answer. If not prescribed by law, please state fully your duties and whence your powers are derived. Have you charge, as such superintendent, of the affairs of the late corporation known as the Life Association of America?

Int. 4th. If you say you have, under what proceedings and in what court? Please attach to your answer a copy of the
102 decree of said court, duly authenticated under the act of Congress, and a copy of the assignment made thereunder.

Int. 5th. As such superintendent are you the owner and holder of a certain note, dated Shreveport, March 11th, 1870, and signed by William E. Hamilton, for the sum of thirty-eight hundred and fifty dollars ($3,850), payable to the order of William E. Hamilton and by said William E. Hamilton indorsed to the Life Association of America, due twelve months after date, with interest at the rate of eight per centum per annum after maturity until paid, and which note is secured by mortgage? Are you, as such superintendent, the owner and holder of the mortgage given to secure said note on property in Shreveport, Louisiana? Has any portion of said note been paid, either in principal or interest; if so, how much in principal and how much in interest? Up to what time was the interest paid?

Int. 6. Have you in your department the original policy issued to William E. Hamilton about the 14th day of July, 1869, in
103 favor of his children, for the sum of $10,000, in class A, No. 2822? If so, please attach it to your answer. If you have

the policy for which the above was surrendered and a new one issued for $7,500 about the 6th day of December, 1877 or 1875, please attach it to your answer.

Int. 7th. Have you any means of ascertaining the value of the second policy, issued to William E. Hamilton on or about the 6th day of December, 1877, to be paid out of the assets of the late corporation, the Life Association of America? If so, will you please state the value or the amount which will be due to said Hamilton on said policy.

Int. 8. State anything, then, which you may know of benefit to complainant in the above-entitled causes.

(Signed) A. GOLDTHWAITE,
WILLIAM S. RELFE,
JNO. S. YOUNG,
Solicitors for Compl't.

Cross-Interrogatories Propounded to John F. Williams, the Witness Produced by the Plaintiff.

104 Cross-interrogatory 1st. If, in answer to the fifth interrogatory-in-chief, you say you are the owner and holder of a certain note, dated Shreveport, March 11th, 1870, and signed by William E. Hamilton, for the sum of thirty-eight hundred and fifty dollars, payable to the order of William E. Hamilton and endorsed by said Hamilton to the Life Association of America, and which note is secured by mortgage, and that you are the owner and holder of said mortgage, please state the time said note was indorsed. And was it endorsed to Robert H. Lindsay or to the Life Association of America?

Cross-int. 2d. Did Robert H. Lindsay have any authority to take said note for the Life Association of America? If so, please state how he was so authorized.

Cross-int. 3d. Did Robert H. Lindsay have any authority to bind the Life Association of America in any contract with W. E. Hamilton to take said note and to accept said mortgage? If so, please annex to your answer any authority to that tenor or effect.

105 Cross-int. 4th. Did Robert H. Lindsay ever transfer said note and said mortgage to the Life Association of America? If so, please annex to your answer any evidence you may have to that tenor and effect.

Cross-int. 5th. If you state that any payments were made on said note please state to whom said payments were made.

Cross-int. 6th. Do you know Thomas Phillips, or do you know his writing and signature?

Cross-int. 7th. Was Thomas Phillips authorized to collect any monies, or to bind the Life Association of America by his receipts? If so, annex any evidence you may have to that tenor and effect.

Cross-int. 8th. Was the Life Association of America duly empowered to do a banking business, to wit, to discount notes, advance money on discounts and interest, on the 11th day of March, 1870?

If so, annex a copy of that clause in the charter that gave said association the power to do a banking business.

106 Cross-int. 9th. If, in answer, you state that you have the original policy of $10,000, which was surrendered, and for which the policy for $7,500 was issued, please state the amount that fell due to Hamilton in consideration of said surrender, and please state why said sum was never paid by the Life Association of America.

Cross-int. 10th. What amount of cash has W. E. Hamilton paid to the Life Association of America on his original policy and on his substituted policy?

Please annex a statement to you answer.

(Signed) ALEXANDER & BLANCHARD,
R. J. LOONEY,
Att'ys for Hamilton.

Answers to Foregoing Interrogatories.

In the Circuit Court of the United States for the Western District of Louisiana.

JOHN F. WILLIAMS, Superintendent, &c., Plaintiff,
vs.
WILLIAM E. HAMILTON, Defendant.

The deposition of John F. Williams, superintendent of the insurance department of the State of Missouri, taken between
107 the hours of nine o'clock a. m. and five o'clock p. m. on the thirtieth day of June, A. D. 1884, at the office of Charles D. Greene, Jr., No. 18 North Third street, in the city of St. Louis and State of Missouri, to be read as evidence in an action between John F. Williams, superintendent of the insurance department of the State of Missouri, plaintiff, and William E. Hamilton, of Shreveport, Louisiana, defendant, pending in the circuit court of the United States in and for the western district of Louisiana on the part of the said plaintiff.

The said JOHN F. WILLIAMS, being duly sworn, on this thirtieth day of June, A. D. 1884, doth depose and say as follows, to wit:

1st. To the 1st int. he saith: I reside in the city of St. Louis, Missouri, and am a citizen of the State of Missouri; I am superintendent of the insurance department of the State of Missouri, and the paper hereto attached, marked "A," is a certified copy of my commission.

2d. To the 2d int. he saith: I have held that official position since March 1st, 1881. My immediate predecessor in office was Wil-
108 liam S. Relfe, who was then and now is a citizen of said State of Missouri.

3rd. To the 3d int. he saith: My duties are prescribed by law, viz., in the act of the General Assembly of the State of Missouri, approved May 19th, 1879, incorporated in the "Revised Statutes"

of 1879 of Missouri as chapter 119, entitled "of insurance," and the subsequent acts amendatory thereof, of which the pamphlet hereto attached, marked Exhibit "B," and certified by the secretary of state, is a copy. As such superintendent I have charge of the business and affairs of the late corporation, the "Life Association of America," for the purposes of settlement and winding up of the same, and I am the legal successor of said corporation.

4th. To the 4th int. he saith: On the 13th day of October, 1879, my predecessor instituted proceedings under the statute against the Life Association of America in the circuit court of the city of St. Louis, State of Missouri, by bill praying for a perpetual injunction restraining that corporation from doing business and for its
109 dissolution and winding up its affairs. The cause was entitled "Wm. S. Relfe, as superintendent of the insurance department of the State of Missouri, plaintiff, *vs.* The Life Association of America, defendant, No. 51556," which style was afterwards changed to "In the matter of the Life Association of America, dissolved." Such proceedings were had in said cause that afterwards, to wit, on November 10th, 1879, the said court rendered a final decree therein, of which the paper hereto marked Exhibit "C" is a true and certified copy, and the notes and copies of the mortgages securing them, now here in controversy, were duly assigned and delivered to said Relfe, as said superintendent, and by him transferred to me as his successor in office.

5th. To the 5th int. he saith: Yes; I am the owner and holder of the note and mortgage referred to in this interrogatory. No part of the principal or interest of said note has ever been paid, to my knowledge, since the dissolution of the company, the Life Association of America. I have no personal knowledge of any payment
110 thereon prior to that date. The records of the company, now in my possession, show interest was paid on the note up to March 18th, 1879.

6th. To the 6th int. he saith: I have in my possession policy No. 2822, issued by said company, dated July 14th, 1869, on the life of William E. Hamilton, referred to in this interrogatory, and submit the same to be hereto attached, marked Exhibit "D," including also the agreement between him and the company, executed December 3d, 1877, reducing the insurance thereunder on certain terms to seven thousand five hundred dollars, which agreement is attached to the policy. This policy was never surrendered and another issued. Under the agreement the policy again became a ten-thousand-dollar policy at the dissolution of the company and has been valued on that basis.

7th. To the 7th int. he saith: There was no second policy. The net value of the policy held by him, before referred to, No. 2822, was, at the date of the dissolution of the company, November 10th, 1879, as reported by the actuary appointed by said court to value
111 all the policies of the company then in force, five thousand four hundred and seven dollars and five cents ($5,407.05), and the same was approved and allowed by the court on the application and petition of said Hamilton, filed by him in the proceeding and

suit before mentioned, which original application is hereto attached, marked Exhibit "E."

8th. To the 8th int. he saith: During the administration of the affairs of the Life Association of America, under the laws of Missouri and the orders of the court, there have been paid the death losses in full and two dividends of five and seventy-four hundredths (5.74) per cent. each on the several amounts allowed on the policies. Another dividend of the same amount has just been ordered, and will be paid as soon as the clerical force can prepare the checks and receipts, &c. A still further dividend of at least 2 per cent. on the amounts allowed will be paid when collected from the assets and converted into cash, and, in my opinion, that will exhaust the estate, thus making about twenty per cent. of the net value
112 of the policies all that the policy-holders will realize from the assets of the company.

Cross-examination:

1 X. To the 1st X int. he saith: Not having the note here to inspect the same, I cannot state when or how it was endorsed, as it was a transaction occurring prior to my ownership of it.

2 X. To the 2d X int. he saith: I cannot say of my own knowledge.

3 X. To the 3d X int. he saith: I do not know of my own knowledge.

4 X. To the 4th X int. he saith: I have no knowledge regarding Robert H. Lindsay's connection with the note, if any, except such as the note itself may show.

5 X. To the 5th X int. he saith: I have no personal knowledge of any payments on said note, nor do I know to whom payments of interest were made.

6 X. To the 6th X int. he saith: I do not know Thomas Phillips, his writing, nor his signature.

113 7 X. To the 7th X int. he saith: I do not know of my own knowledge whether Thomas Phillips was authorized to collect moneys for or bind the Life Association by his receipt, but I am informed by Mr. Henry W. Hough, the late president of the company, that he was the secretary of the Shreveport branch, and was authorized to collect loans when papers were sent to him for that purpose, and that the books of the company show such collections.

8 X. To the 8th X int. he saith: The Life Association of America was organized in 1868 and managed thereafter as a purely mutual company, and its powers then defined by statute. In 1869 it amended its charter, which was in force on March 11th, 1870, and until 1872, when another amended charter was adopted, and, in further answer to this question, I append hereto a paper, marked as Exhibit "F," being a copy of sections 2, 4, 50, 51, and 52 of the said charter of 1869, which were in force on March 11th, 1870, showing the character of the organization and its authority to make loans. Further than this I do not know as to its powers.

114 9 X. To the 9 X int. he saith: The original policy No. 2822 was not surrendered. Its value, on the original basis of

ten thousand dollars, computed at the date of dissolution, as required by the laws of Missouri, was $5,407.05. Under the law Hamilton is entitled to be paid of that amount the same percentage that all other policy-holders of the company have received or will receive—that is to say, three dividends of 5.74 per cent. each and as much more as can be collected of the assets, less cost of administration, which I have already estimated to be about twenty per cent. He is not entitled to receive any larger proportion than any other policy-holder. Why he has not been paid the two dividends referred to is perhaps his own fault. He is at least entitled at this time to a credit of three dividends of 5.74 per cent. each, to be applied upon his indebtedness, as evidenced by his note and mortgage.

10 X. To the 10 X int. he saith: As my answer to this
115 interrogatory I append hereto the report of the actuary, showing the data and history of the policy as shown by the records of the company, the same being marked Exhibit "C."

(Signed) JOHN F. WILLIAMS.

Sworn to and subscribed before me this thirtieth day of June, A. D. 1884.

Witness my hand and official seal.

[SEAL] (Signed) C. D. GREENE, JR.,
Special Commissioner.

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, Charles D. Greene, Jr., special commissioner, residing in the city of St. Louis and State of Missouri aforesaid, do hereby certify that the foregoing deposition of John F. Williams was taken before me at the time and place stated in the caption, and was read to and subscribed by the said deponent in my presence, the said John F. Williams having been first duly sworn by me that the evidence he should give in the said action should be — truth, the whole truth and nothing but the truth, and that his statements were reduced to writing by me in his presence, neither party being pres-
116 ent at the examination except as the witness is, in his official capacity, the plaintiff.

In witness whereof I have hereto set my hand and official seal this thirtieth day of June, A. D. 1884.

[SEAL.] (Signed) C. D. GREENE, JR.,
Special Commissioner.

Commissioner's Certificates Annexed to Exhibits of Foregoing Commission.

U. S. Circuit Court, Western District of Louisiana.

JOHN F. WILLIAMS, Superintendent of the Insurance Department of the State of Missouri,
vs.
WM. E. HAMILTON.

This packet contains Exhibits A, B, C, D, E, F, and G to the deposition of John F. Williams in the above cause, taken before me at St. Louis, Mo.

June 30th, 1884.

(Signed) C. D. GREENE, JR.,
Special Commissioner.

117 EXHIBIT A. "Certified copy of commission of John F. Williams, sup't," &c., referred to and made part of his deposition.

STATE OF MISSOURI, *ss:*

I, Michael K. McGrath, secretary of state of the State of Missouri, hereby certify that the annexed pages contain a full, true, and complete copy of the commission issued on the twenty-first day of January, eighteen hundred and eighty-one, to John F. Williams, as superintendent of the insurance department of the State of Missouri, as the same appears of record, as the law directs, in this office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Missouri. Done at office, in the city of Jefferson, this twentieth day of November, A. D. eighteen hundred and eighty-three.

[SEAL.] (Signed) MICH'L K. McGRATH,
Secretary of State.

Commission.

The State of Missouri to all who shall see these presents, Greeting:

Know ye that I, Thomas T. Crittenden, Governor of the
118 State of Missouri, having nominated John F. Williams superintendent of the insurance department, and the senate having consented to said appointment, now, therefore, I hereby appoint and commission said John F. Williams superintendent of the insurance department of the State — Missouri, and do authorize him to discharge, according to law, the duties of said office, and to hold and enjoy the same, with all the privileges and emoluments thereto appertaining, for the term of four years from and after the first day of March, eighteen hundred and eighty-one.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Missouri. Done at the city of Jefferson this twenty-first day of January, in the year of our Lord one thousand eight hundred and eighty-one, — of the Inde-

pendence of the United States the one hundred and fifth, and of the State of Missouri the sixty-first.

THOS. T. CRITTENDEN.

By the Governor:

[SEAL.] (Signed) MICHAEL K. McGRATH,
Secretary of State.

119 EXHIBIT "B." Revised Statutes of Missouri of 1879 as chapter 119, entitled "Of Insurance," and the subsequent acts amendatory thereof, which are referred to and made part of the foregoing deposition, under commission of John. F. Williams, superintendent, &c.

Agreement of Counsel as to Foregoing Exhibit B. Filed July 15th, 1885.

U. S. Circuit Court for the Western Dist. of La. In Equity.

JOHN F. WILLIAMS, Superintendent of Insurance, &c.,
vs.
WM. E. HAMILTON,
and
WILLIAM E. HAMILTON
vs.
JOHN S. WILLIAMS, Sup't, &c. } Nos. 10 & 11.

It is agreed between solicitors, representing plaintiff and defendant, that Exhibit B, attached to the deposition of John F. Williams and designated "Constitutional and statutory laws of the State of Missouri relating to insurance and insurance corporations, including the enactments and revisions of the thirteenth General Assembly, which adjourned May 20th, 1879, compiled by Geo.
120 D. Reynolds," be omitted from the transcript, with the reservation of the right to either plaintiff or defendant or both to produce the same or such portion as may be pertinent as a part of the brief to be filed in the cause, and to be referred to as if printed in the transcript.

(Signed) A. GOLDTHWAITE,
Solicitor for Complainant and Plaintiff in Error.

(Signed) R. J. LOONEY,
ALEXANDER & BLANCHARD,
Solicitors for Def't.

121 EXHIBIT "C." Copy of a final decree of the circuit court of the city of St. Louis, referred to and made — of the deposition of John F. Williams, superintendent, &c.

UNITED STATES OF AMERICA,
State of Missouri, City of St. Louis, } ss:

In the Circuit Court. October Term, 1879.

Pleas before the Honorable Elmer B. Adams, judge of the circuit court of the city of St. Louis, of the State of Missouri, and at a term thereof begun and held at the court-house, in the city of St. Louis, State of Missouri, on the first Monday of October, in the year of our Lord eighteen hundred and seventy-nine.

Present: Honorable Elmer B. Adams, judge; John Finn, Esq., sheriff; Chas. F. Vogel, clerk.

Be it remembered that at the said term of said court, and on Monday, the 10th day of November, 1879, the following, among other, proceedings were had, to wit:

WILLIAM S. RELFE, as Superintendent of the Insurance Department of the State of Missouri, Plaintiff,

vs.

THE LIFE ASSOCIATION OF AMERICA, Defendant.

MONDAY, *Nov.* 10, 1879.

122 Now, on this the tenth day of November, 1879, the same being one of the regular court days of the October term, 1879, of this court, this cause came on to be heard, the said plaintiff appearing by Carr and Reynolds, his attorneys, and the said defendant appearing by Irwin Z. Smith, its attorney.

And the court having seen, heard read, and duly considered the report heretofore filed by B. Gratz Brown, Esq., heretofore appointed by the court as referee to hear the testimony in said cause offered and to report his conclusions on the same to the court, and no exceptions having been filed to said report, and exceptions thereto having been waived by defendant, and both plaintiff and defendant being now here in court, by their said attorneys, and the defendant making no objections in the premises, and the finding of said referee, as appears by said report, being for the plaintiff, it is considered and adjudged by the court that the said report be, and the same is hereby, confirmed, and the court doth find from said report that at the date of the commencement of this action, to wit, October 13th, 1879, the said defendant, The Life Association of America, was insolvent and its condition such as to render *is* further pro-
123 ceedings hazardous to the public and to those holding its policies:

Wherefore it is ordered, adjudged *adjudged*, and decreed by the court that The Life Association of America, the said defendant, be, and it is hereby, adjudged and declared insolvent and its condition such as to render its further proceedings hazardous to the public and

to those holding its policies, and this court, under and by virtue of the power and authority vested in it by the statutes of the State of Missouri, doth order, adjudge, and decree that the said defendant, The Life Association of America, a company incorporated under and by virtue of the laws of the State of Missouri, be, and it is hereby, dissolved pursuant to the provisions of the said statutes, and that said defendant, its officers, agents, servants, solicitors, attorneys, and employés, be, and it and they are hereby, perpetually enjoined from claiming or exercising any control over any of the property, rights, assets, choses in action, or moneys of said defendant, and from doing any insurance business whatsoever under or by any authority or pretended right existing or claimed to exist by virtue of said corporation, and from doing any acts in exercise of any of the
124 franchises of the Life Association of America, and from claiming or exercising any corporate rights whatever as such association, and from the further continuance of its business of life insurance, and from any and all business of whatsoever kind and description except as in this decree hereinafter provided for.

It is further ordered, adjudged, and decreed by this court, under and by virtue of the statutes of this State, that the title to all the assets of the said defendant, The Life Association of America, real, personal, and mixed, and whether situate in this State or elsewhere, be, and the same is hereby, vested, in fee simple and absolutely, in William S. Relfe, as the superintendent of the insurance department of the State of Missouri, and his successor or successors in such office of superintendent, to hold and dispose of the same for the use and benefit of the creditors and policy-holders of said defendant and such other persons as are or may — interested in such assets.

It is further ordered, adjudged, and decreed by the court that all the rights, claims, and choses in action of the said defendant, The Life Association of America, or to which it or its policy-holders
125 through it now have or had any right, title, or interest in law or equity at the date of the commencement of this suit, to wit, October 13th, 1879, as well as all the right, title, and interest of said defendant, The Life Association of America, or its policy-holders through said corporation to any and all real personal and mixed property, wherever the same may be, whether in this State or elsewhere, and to all rights, claims, and choses in action, wheresoever and in whatsoever manner existing, as the same existed, belonged to, or could be claimed by said defendant or its policy-holders through it at the date of the commencement of this suit as aforesaid or which have since then or shall hereafter accrue, be, and the same are hereby, vested in said William S. Relfe, as such superintendent of the insurance department of this State, and his successor and successors in said office of superintendent, for the use and benefit of the creditors and policy-holders of said defendant and such other persons as may be interested in the same.

It is further ordered, adjudged, and decreed that the said William S. Relfe, as superintendent of the insurance department, shall forthwith take possession of all the assets, books, papers, choses in
126 action, and effects of said defendant, whether situate in this State or elsewhere, and proceed to collect, adjust, and settle

the debts and claims due said defendant, and that he may institute, maintain, and defend, either in his own name as superintendent of the insurance department of the State of Missouri, or in the name of the Life Association of America, where that shall be deemed by him advisable, any and all actions at law or suits in equity in the courts of this or of any other State or of the United States affecting the assets of said defendant or the rights and claims of its policy-holders through it, with power to prosecute, defend, and continue all suits brought by or against said defendant, whether heretofore or hereafter commenced or whether in the name of said defendant or otherwise.

It is further ordered by the court that Daniel M. Frost, Esquire, heretofore appointed by this court in this cause as agent to temporarily take charge of the property of said defendant and to receive its premiums and other income, be, and he is hereby, ordered forthwith to turn over and account to said William S. Relfe, as superintendent as aforesaid, all the property, premiums, and income
127 belonging to said defendant which come into his hands as such agent, and that he furnish to said superintendent an itemized account of all his receipts as such agent, and file a copy of the same with the court in this cause, together with the receipt of said Relfe for all property, premiums, and income turned over to said Relfe by him, and that he forthwith deliver to said Relfe, as such superintendent, possession of all buildings, books, keys, papers, securities, moneys, and other property which have come into his hands as such agent.

It is further ordered by the court that the said Life Association of America, by its proper officers and whomsoever else may have possession thereof, convey, assign, transfer, and deliver over to said William S. Relfe, as superintendent of the insurance department of the State of Missouri, upon his demand therefor, all the property, real, personal, and mixed, wheresover found or situated, whether in this State or elsewhere, and all contracts and all other legal and equitable interests, things in action, and other effects which belong to said defendant now or at the commencement of this suit, or which were held in trust for the said defendent, The *the* Life Association of America, or in which it had any beneficial interest,
128 then or now, in the same condition they were at the time of the commencement of this suit, and in which it has or had any such interest, and that said defendant deliver over in like manner all deeds, leases, bonds, mortgages, deeds of trust, books, vouchers, and such other evidences relating thereto. In case of failure for any reason on the part of the defendant to execute the proper legal and necessary transfers, deeds, and conveyances (but without prejudice to the right of the said — to proceed against the said defendant and all other persons as for contempt of court) this decree shall stand as such transfer and conveyance, and for the complete execution of such transfers and conveyances, but for no other purposes, the temporary injunction and the permanent injunction in this cause, so far as is necessary to enable such deeds, transfers, conveyances, assignments, and delivery to be made, are modified so

as to authorize the proper officers of the defendant to make the same as herein ordered and required.

It is further ordered, adjudged, and decreed by the court that the said William S. Relfe, as superintendent of the insurance department of the State of Missouri, his successor and successors
129 in said office, forthwith proceed to the execution of the duties of the trust in the manner and according to and under the statutes of this State in such case made and provided; that he sell and dispose of the real estate and other property of said defendant subject to the approval of this court, and execute in his own name as such superintendent all necessary and proper conveyances of the same; that he pay out and distribute all money coming into his hands in the order of payment set forth in the statute, and that he keep accurate and itemized accounts of all receipts and expenditures in this behalf, and on the first day of each term of court to file in this court full reports of all his proceedings in this behalf, and he is at liberty from time to time to apply to this court for such orders, directions, decrees, and process as shall be necessary, for which purpose the record of this cause is kept open.

And it is further ordered and adjudged that said plaintiff have and recover of and from the said defendant his costs and charges in this behalf laid out, incurred, and expended, to be taxed and approved by the court, and when so approved to be paid out of the assets of said defendant, as provided by law.

130 STATE OF MISSOURI, } ss:
City of St. Louis, }

I, Chas. F. Vogel, clerk of the circuit court within and for the city of St. Louis, State of Missouri, do hereby certify that the foregoing is a full, true, and perfect copy of the decree rendered in said court on the 10th day of November, 1879, being one of the regular days of the October term, 1879, of said court, in a cause wherein William S. Relfe, as superintendent of the insurance department of Missouri, is plaintiff and The Life Association of America is defendant, as the same appears in the record of said court.

Witness my hand and the seal of said court, at my office, in said city and State, this 28th day of June, 1884.

[SEAL.] (Signed) CHAS. F. VOGEL, *Clerk.*

STATE OF MISSOURI, } ss:
City of St. Louis, }

I, Amos M. Thayer, presiding judge of the circuit court within and for the city of St. Louis, in the State of Missouri, do hereby certify that the attestation of Charles F. Vogel, clerk of said
131 court, to the judgment, order, and decree of said court, as above written, is in due form.

Given under my hand and private seal, at St. Louis aforesaid, this 28th day of June, 1884.

(Signed) AMOS M. THAYER, [SEAL.]
Judge of the Circuit Court of St. Louis, State of Missouri.

EXHIBIT "D." Policy of insurance on the life of William E. Hamilton, No. 2822, referred to and made part of the deposition of John F. Williams, superintendent, &c.

Policy No. 2822.
Class A, No. 2278.
Age, 41.
Amount, $10,000.
Annual prem., $877.80.
Payable July 14, every year until A. D. (1879) eighteen hundred & seventy-nine.

The Life Association of America, in consideration of the representations made to them in the application for this policy of assurance, and of the sum of eight hundred and seventy-seven $\frac{80}{100}$ dollars to them duly paid by William E. Hamilton, trustee, and of the annual payment of a like amount on or before the fourteenth day of July in every year during a term of nine years, at the office of the Life Association of America, in the city of St. Louis, Missouri, do assure the life of William Elijah Hamilton, of Shreveport, in the parish of Caddo, State of Louisiana, in the amount of ten thousand dollars.

132 And the said association do hereby covenant and agree to pay the said amount at their office, in the city of St. Louis, to William Elijah Hamilton or assigns, on the fourteenth day of July, A. D. eighteen hundred and eighty-four; or, if the insured shall die previously, in sixty days, after due notice and proof of death, to his children, Fanny Noomis, Carrie Bryan, Pinnie Chaffe, John Clinton, and William Edward Hamilton, or their legal guardian, in case they are under age, or their executors, administrators, or assigns, all indebtedness to the association being first deducted therefrom.

And the said association do further agree that if, after having received two or more annual premiums, the said assured shall fail to make payment of any other premium when due; or, if he shall fail to pay the interest on any lien which may exist against said policy, then and in either of such cases this policy shall by virtue of said failure to pay become a paid-up policy for a sum equal only to as many tenth parts of the sum hereby assured as there shall have been annual premiums paid, said commuted policy being subject to all the conditions, liens, and liabilities of this policy:

133 Provided, however, That if this policy should be commuted in the manner above set forth it shall become the duty of the party or parties beneficially interested therein to pay to said association, at their office in St. Louis, all such liens, forbearances, or credits as may exist against this policy on account of the premium on same, or to furnish said association with a satisfactory promissory note, bearing interest at the rate of ten per cent. per annum, of the aggregate amount of such liens of forbearances; and if any default shall be made in such promissory notes or the payment of interest thereon said commuted policy, with all sums of money which may have been paid on account of same, shall be forfeited to said association.

And it also understood and agreed that the person whose life is the subject of this assurance is permitted and limited to reside and travel by the usual modes of conveyance between the 25th and 60th degrees of north latitude and the 125th degree of longitude west

and the 40th degree of longitude east of Greenwich, excepting that between the 1st of July and the 1st of November he shall not pass south of the — degree of north latitude: Provided always,

134 That in case the said person whose life is the subject of this assurance shall at any time pass beyond the above-described limits or be personally engaged in blasting, mining, submarine operations, or the production of highly inflam-able or explosive substances, or in working or managing a steam-engine in any capacity, or as a mariner, engineer, fireman, conductor, or laborer in any capacity upon any sea, sound, inlet, river, lake, or railroad, or shall enter any military or naval service whatsoever (the militia when not in active service excepted) without the consent of this association, in each or either of the *foreign* cases previously given in writing, or if he shall die in consequence of the violation of the laws of any government, or if any declaration made in the application for this policy, and upon the faith of which it is issued, shall be found in any material respect untrue or any material fact suppressed or concealed, then and in every such case this policy shall be null and void.

If this policy be assigned or held as security written notice shall be given within sixty days to this association, and due proof of interest produced with proof of death.

135 In testimony whereof the said association has caused these presents to be signed by its president and secretary and its corporate seal to be hereto affixed this fourteenth day of July, A. D. 1869.

[SEAL.] (Signed) H. W. HOUGH, *Vice-President.*

(Signed) J. P. THOMPSON, *Secretary.*

[$1.00 int. rev. stamp affixed.]

Agents of this association are not permitted in any case to make, alter, or discharge contracts; they are authorized to receive premiums, when due, on presenting a printed receipt signed by the president and secretary.

(Endorsed.)

The Holder of Policy No. 2822 *in Account with the Life Association of America.*

Dr.			Cr.		
Date.	Loans.	Amount.	Date.	Divid's.	Am't.
1869. Jan'y 14	To cash loan.....	292 00		By dividend.	

Agreement Annexed to Foregoing Policy.

Agreement respecting policy No. 2822 of the Life Association of America on the life of Wm. E. Hamilton.

The parties to this agreement are the owner of the above-
136 designated policy (hereinafter called "this policy") and the Life Association of America (hereinafter called "the association").

In consideration of the reduction below named in the amount of premiums payable on this policy and of the special dividends to be allotted on this policy, the owner of this policy *the owner of this policy* hereby agree- that the amount insured under this policy shall be reduced one-fourth—that is to say, said amount shall be seven thousand five hundred dollars, and the remainder of the sum expressed in this policy, namely, the sum of two thousand five hundred dollars, is hereby released, surrender-, and discharged.

This association agrees that the premiums payable on this policy shall be reduced one-fourth, namely, that the premium shall hereinafter be payable at the rate of six hundred and fifty-eight $\frac{85}{100}$ dollars per annum, payable in the manner and at the times provided in this policy for the payment of premiums.

The association further agrees that this policy shall be entitled to share in special dividends (subject to the conditions next
137 hereinafter stated) until in all such dividends shall have amounted to the sum of sixteen hundred and thirty-five $\frac{22}{100}$ dollars, being the net value of the amount of insurance above released, surrendered, and discharged.

Conditions of Special Dividends.

The surplus of the association hereafter produced on policies now in force shall be first appropriated toward the payment of the net values of one-fourth of the insurances under those policies which shall have been reduced one-fourth before any payment from such surplus be made on policies not so reduced.

A policy reserve at four per centum interest shall be maintained before any returns of surplus be made. If this policy terminate by maturity and settlement, and not otherwise, the special dividends shall thereafter continue until in all the amount paid shall be as above stated.

In case the policies of the association, taken together, be determined by an process of law or equity, then the interest of this policy in the funds of the association shall include the net value (sixteen hundred and thirty-five and $\frac{22}{100}$ dollars) above specified, less any special dividends that may have been paid.

138 This agreement shall, with this policy, taken together, be construed as one instrument, and this policy shall be taken in all respects as if it had been originally issued in the sum of seven thousand five hundred dollars; and also any commuted or paid-up

or extended insurance on account of this policy shall be treated as hereby reduced one-fourth proportionately to the reduction of the sum insured in this policy.

This agreement shall take effect from and after the date of its execution.

Executed this third day of December, 1877, by the owner of the above-designated policy and the Life Association of America.

(Signed) H. W. HOUGH, *President.*
(Signed) J. S. PIERCE, *Secretary.*

EXHIBIT "E." Petition of William E. Hamilton, referred to and made part of the deposition of John F. Williams, superintendent, &c.

In the St. Louis Circuit Court.

In the Matter of THE LIFE ASSOCIATION OF AMERICA, Dissolved.

Case No. 51556.

139 William E. Hamilton claim- that, as a creditor of the Life Association of America, *that* said claim is founded on a policy issued by said company, dated 14th day of July, 1869, numbered class A, 2822, class A, 2278, and herewith filed, insuring the life of Wm. E. Hamilton in the sum of ten thousand dollars in favor of and payable to his children in event of death before it- maturity, and to him if living July 14th, 1884, and claimant aver- that he is legally entitled to receive the net value which said policy had on the 10th day of November, 1879, which — pray- may be allowed.

He is due said Life Association of America $3,850, with 8% int. from 11th March, 1879, as per note, and claims same as an offset against said $10,000 policy. The one-fourth deduction made on said policy Dec. 7th, 1877, we claim to be a fraud and obtained consent from representations that were not facts; hence claim value of entire policy, $10,000, from facts. The one-fourth was a fraud and a failure, and the reduction of which did not keep the Co. intact.

(Signed) WM. E. HAMILTON, *Claimant.*

Post office, Shreveport, Bossier parish, Louisiana.

140 (Endorsed:) Approved for $5,047.05. (Signed) W. S. Relfe, sup't.

Copy of Order.

In the Matter of the LIFE ASSOCIATION OF AMERICA, Dissolved.

NOVEMBER 26TH, 1879.

It is ordered by the court that B. Gratz Brown, Esquire, be, and he is hereby, appointed by the court commissioner in this cause, and as such commissioner to hear and report upon any claim or claims against the Life Association of America hereafter specifically referred to him by the court.

It is further ordered that all persons holding policy or other claims against the Life Association of America shall, in the first instance, present the same to the superintendent of the insurance department in charge of said association; that said superintendent shall endorse on each claim so presented his approval or disapproval of the same in whole or in part. If he disapproves said claim or any part thereof he shall endorse his reasons therefor on said claim; said superintendent shall report all claims presented to him, with his action thereon, to this court for its action.

141 If the court disapproves of the action of said superintendent or if the owner of the claim objects to the action of the said superintendent, said claim may be referred to the commissioner above named, who shall, first giving the said superintendent as well as the holder of said claim or his attorney of record at least three days' notice of the time and place when he will hear the same, forthwith proceed to hear and examine into said claim and shall report his action thereon to the court. Either party may have three days after filing of said report in which to except to the same.

EXHIBIT "F." "Copy of sections 2, 4, 50, 51, and 52 of the charter of 1869 of said Life Association of America, which were in force March 11th, 1870, showing the character of the organization and its authority to make loans," referred to and made part of the deposition of John F. Williams, superintendent, &c.

SECTION 2. This corporation shall have power and authority to make and issue policies of insurance on the lives of individuals, and to buy, sell, grant, and otherwise acquire and dispose of the

142 same, & also to buy, sell, grant, and otherwise acquire, — and of endowments and annuities of every description in the lives, both of infants and adults, and in general to do and perform every act and thing which may be lawfully done and performed by mutual life assurance companies incorporated under and by the authority of an act of the General Assembly of the State of Missouri, entitled "An act for the incorporation and regulation of life assurance companies," approved March 10th, 1869: Provided, however, That no form of policy shall be issued which shall not be open alike to all persons who are fit subjects for assurance.

* * * * * * *

SEC. 4. This corporation shall transact business on the mutual plan only, and each policy-holder shall be a member, and when duly qualified shall be eligible to every office of the company, and shall be entitled to participate equitably in the government, earnings, and surplus of the same, and in all other privileges and advantages connected herewith.

* * * * * * *

SEC. 50. The manner of making loans and investments shall be in accordance with such regulations regarding the examination

143 of titles, estimation of values, and forms of conveyance as may be from time to time adopted by the general board of directors.

SEC. 51. The net present value of the liabilities of the company under policies issued to members of each department, as fixed by the standard of valuation of the company, shall be invested and kept invested within such department: Provided, however, That no such investment shall be made except in the manner and upon the securities provided in section 52.

SEC. 52. The board of directors of each department shall loan the money to be invested in said department by the provisions of the fifty-first section of this charter as the same shall be realized: Provided, That no such loan shall be made except upon a majority vote of the department board of directors and subject to the provisions of the fiftieth section, and unless the payment of the money so loaned be secured by policies of the company for an amount not to exceed ninety per cent. of the net present value of such policies as fixed by the standard of valuations of the company or by mortgage or deeds of trust upon unincumbered real estate, worth at least three
144 times the amount loaned thereon, and unless such real estate shall be situated within such limits as shall be designated by the general board of directors; and provided further that if the money to be loaned within such department cannot be loaned within such department on the securities mentioned in this section or upon such terms or at such rate of interest as shall be satisfactory to the general board of directors within thirty days after the money shall have been reported as received at the department office, then it shall be the duty of the treasurer of the department to forward said money to the treasurer of the company, at St. Louis, to be invested only in loans to parties residing within the department from which the same shall have been derived, provided the proper securities can be obtained from such parties; otherwise to be invested as the general board of directors may deem proper.

EXHIBIT "G." Report of the actuary showing the data and history of the policy as shown by the records of the company, re-
145 ferred to and made part of the deposition of John F. Williams, sup't, &c.

STATE OF MISSOURI, INSURANCE DEPARTMENT,
ST. LOUIS, *June 28th*, 1884.

Hon. John F. Williams, superintendent ins. dep't, Mo.:

On July 14th, 1869, the Life Association of America issued its policy of endowment insurance on the life of William E. Hamilton, of Shreveport, Louisiana, payable ... fifteen years to the insured, or, at previous death of the insured, to Fannie N., Carrie B., Pinnie C., John C., and William E. Hamilton, children of the insured, or to their legal guardian—policy No. 2822. Hamilton's age at issue of policy was 41 years; the amount was $10,000; the premium was $585.80 cash and $292 premium note, at 8% interest, in advance, premiums to be paid up in ten years.

Premiums were paid upon this policy as follows:

1869. Cash pr., $585.80; int., $23.36, on note for $292.
1870. " 585.80; " 46.72, " " 584.
1871. " 585.80; " 54.80, " " 685, dividend of $191 having been applied on note in 1871.

146 1872.—Cash pr'm, $585.80; int., 74.72, on note for $930.25, a dividend of $46.75 having been applied on notes in 1872.

1873.—Cash pr., $585.80; interest, $99.78, on notes for $1,222.25. No dividend was declared in 1873.

1874.—Cash pr., $585.80; interest, $109.88, on notes for $1,373.50. A dividend of $140.75 was declared and applied on notes in 1874.

1875.—Cash pr'm, $585.80; interest, $129.69, on notes for $1,621.10; a dividend of $44.40 applied on note in 1875.

1876.—Cash pr'm, $585; int., $148.95, on notes for 1,861.90, a dividend of $51.20 having been applied on notes for 1876.

1877.—Cash prem., $585.80; interest, $172.31, on notes for $2,153.90; no dividend in 1877.

In Dec., 1877, the policy, by agreement with Hamilton, was scaled or reduced to $7,500, and the annual cash premium and annual premium note also reduced one-fourth, the purpose being that if the company should recover from its impaired condition or should be determined by process of law the policy should be treated, as to the value of the one-fourth reduced, as if it had not been scaled or reduced. The policy was not surrendered, and there was no

147 value of the policy considered, because there was no new policy issued, the original policy remaining in force exactly as before except as to its reduced amount.

In 1878 Hamilton paid cash $439.35 for premiums and $189.83 for interest on note of $2,372.90.

This completed the ten premiums. Interest on notes was paid in 1879.

Recapitulation.

1869.	Tot. cash,	$609.16;	annual note,	$292;	total note,	$292.
1870.	"	632.52;	"	292;	"	584.
1871.	"	640.60;	"	292, 191 div'd;	"	685
1872.	"	660.22;	"	292, 46.75;	"	930.25.
1873.	"	683.58;	"	292 (no div'd);	"	1,222.25.
1874.	"	695.68;	"	292, 140.75;	"	1,373.50.
1875.	"	715.49;	"	292, 44.40;	"	1.621.10.
1876.	"	734.75;	"	292, 51.20;	"	1,861.90.
1877.	"	758.11;	"	292 (no div'd);	"	2,153.90.
1878.	"	629.18;	"	219 "	"	2,372.90.
1879.	"	189.83, being interest on outstanding note of				2,372.90.

The record does not disclose the exact date of these payments, that being upon the agent's reports, which are not accessible, but credits are duly given upon the anniversaries of the payments.

148 The value of the policy on November 10th, 1879, the date of the dissolution of the company by order of court, was, of the whole $10,000.00, $7,779.95, from which deduction outstanding note of $2,372.90 left $5,407.05 as the net value, and which amount

was allowed by the commissioner and approved by the circuit court of St. Louis.

(Signed) AUG. F. HARVEY,
Actuary Ins. Dep't of Mo.

149 *Amended Charter of the Life Association of America, Approved July 12th, 1877, Referred to and Made Part of Complainant's Note of Evidence and Filed July 5th, 1884.*

SECTION 1. The name of this corporation shall be "Life Association of America," and by this name it shall have succession for the period of nine hundred and ninety-nine years. It shall be hereinafter referred to as the association. Its principal office for the transaction of business shall be located in the city of St. Louis, State of Missouri, and shall be hereinafter referred to as the general office.

SEC. 2. The association shall have power and authority to make and issue, buy, sell, grant, and otherwise acquire and dispose of insurance endowments, annuities, and contracts of every description depending on the duration of human lives, and in general to do and perform every act and thing which may be lawfully done and performed by life insurance companies in the State of Missouri.

SEC. 3. The business of the association shall be transacted on the mutual plan, but non-participating policies may be issued
150 as hereinafter provided. Each mutual policy-holder shall be a member of the association, and shall when duly qualified be eligible to any office thereof.

SEC. 4. The corporate powers of the association shall be exercised by a board of directors, forty-five in number, to be called the general board of directors, and to be constituted in the manner following: Fifteen members, citizens of Missouri, shall be elected as provided in section six hereof; the remaining thirty directors shall be the presidents of the department boards of the thirty departments organized under this charter, each such presidents to be *ex officio* a member of the general board of directors: Provided, however, That the presidents of departments formed after any election shall not become members of said board until its next annual election; and if at any time, from lack of organization of the full number of departments or for any other reason, there shall not be thirty *ex officio* directors, qualified as such, the vacancies in the general board shall be filled as provided in section six of this charter.

151 SEC. 5. The general board of directors shall establish and conduct the business of the association within all the States and Territories of the United States wherever in their judgment the interests of the association may require; and in each State or Territory in which it shall transact business there may be organized departments of the association. The general board of directors shall prescribe the rights, powers, and privileges of the several departments; shall provide for the manner of their organization; shall determine their names and territorial limits; shall determine the number and times and modes of election of their directors and the number and titles of their officers;

and, in general, shall establish rules and regulations for the conducting of the business in all respects in or by departments: Provided, That no present existing rule regulating the conducting of the business of any department now in active operation shall be changed by the general board of directors except with the concurrence of the board of directors of such department. All by-laws,
rules, and regulations for the government of the business of
152 the association shall be also established by the general board
of directors; said board shall appoint and organize for every department when created a board of trustees, to be known as the board of trustees of said department. The general board of directors shall fix the number of trustees of which said board shall consist, and may at any time increase or may diminish the number when vacancies occur, or may fill such vacancies. Every trustee when duly elected and commissioned shall continue to be a trustee so long as the insurance required to constitute him a trustee shall be continued in force by the payment of the premiums, unless he shall previously resign or shall cease to reside within the territorial limits of the department, or shall be removed by the general board of directors for conduct injurious to the association, of which the general board of directors shall be the judge.

SEC. 6. Five directors of the general board shall be elected, to serve for the term of three years each, at a meeting to be held at the general office of the association in the city of St. Louis on the Tues-
day preceeding the third Wednesday in the month of May of
153 each year; notice of such election shall be published as re-
quired by law. At each such election the voting shall be by ballot, and each member of the association shall be entitled to cast one vote, and in addition thereto one vote for every one hundred dollars of the net present terminal value of his policy or policies (at the end of the policy year current on December 31st preceeding), as fixed by the standard of valuation of the association, and such votes may be cast by proxy, subject to the provisions of an act of the General Assembly of the State of Missouri entitled "An act for the incorporation and regulation of life assurance companies," approved March 10th, 1869, and of such by-laws, not inconsistent with said act, as may from time to time be made by the general board of directors. All vacancies in said board, however caused, shall be filled by the board. Elected members of all boards of directors shall serve until their successors shall have been duly elected, qualified,
and shall have signified their acceptance of office.

154 SEC. 7. The present elected members of the general board
of directors shall serve until the expir'g of the several terms for which they were elected, and the present officers of the association and of the various departments thereof shall continue in office until the next regular election, or until their successors shall have been duly elected and shall have signified their acceptance of office.

SEC. 8. The general board of directors shall hold a regular meeting on the third Wednesday of each month. The president or the secretary of the association may call a special meeting of the board at any time, and shall do so on the written request of any five mem-

bers of the board. Such meeting shall be called by notice, stating the time and place of the meeting, a copy of which notice, addressed to each elected member of the board, shall be mailed to him or left at his usual place of residence or business at least twenty-four hours before the time appointed for such meeting, but notice may be given and the meeting held on one and the same day, provided a majority of the fifteen elected directors acknowledge receipt of notice of such meeting. At any meeting a majority of the fifteen
155 members elected under the sixth section of this charter, with such of the other members of the board as may be present, shall constitute a quorum, and no business can be transacted at any meeting of the board unless a majority of said fifteen members — present.

SEC. 9. The officers of the association shall be a president and one or more vice-presidents, a secretary, treasurer, actuary, medical officer, attorney, and such other officer as may be necessary for the transaction of the business.

The president and vice-president of the association shall be elected annually by the general board of directors from among the elected members thereof at a meeting to be held the day following the election of the general board of directors. They shall hold office for one year and until their successors shall have been duly elected and shall have signified to said board their acceptance of office. The other officers of the association shall be elected by the same board at a regular meeting or at any special meeting called for that pur-
156 pose, and shall hold office during the pleasure of the board. The compensation of all the officers and employees of the association shall be fixed by the general board of directors.

SEC. 10. All policies of insurance, endowments, annuities, and contracts of every kind shall be signed by the president and the secretary and shall be sealed with the seal of the association.

SEC. 11. All assets, including the moneys, notes, bonds, mortgages, deeds of trust, and other securities of the association, shall be under the control of the general board of directors and in the custody of the treasurer or of such other person or persons as the general board of directors may appoint.

SEC. 12. All loans and investments shall be made in accordance with such regulations regarding the examination of titles, estimates of values, and forms of conveyance as may be from time to time adopted by the general board of directors, but no loans shall be made upon the security of real estate for an amount exceeding one-half its value.

157 SEC. 13. There shall be loaned (and kept loaned) in each department a sum equal to two-thirds of the net present terminal value or premium reserve (taken at the end of the preceding policy year and computed by a net valuation at four per centum yearly interest and the table of mortality designated by the general board of directors) of all participating premium paying whole life and endowment insurance policies in force upon the lives of persons resident within such departments: Provided, however,

That no loans shall be made except in the manner and upon the securities provided in section fourteen hereof.

SEC. 14. The board of directors of each department shall loan the money to be invested in said department by the provisions of the thirteenth section hereof: Provided, That no such loan shall be made except by approval of the majority vote of the department board of directors and subject to the provisions of the twelfth section hereof and unless the payment of the money so loaned be secured by mortgages or deeds of trust upon unincumbered real estate worth at least three times the amount loaned thereon and situated within such limits as shall be designated by the general board of directors: And provided, further That if the money to be loaned within any department cannot be immediately loaned within such department on the securities mentioned in this section or upon such terms and at such rate of interest as shall be satisfactory to the general board of directors, then until such loans can be so made such money shall be loaned or invested by the general board of directors under the provisions of the following section.

SEC. 15. The money and funds of the association not loaned under the provisions of the preceding section shall, subject to the provisions of section twelve, be invested in or loaned upon treasury notes or bonds of the United States, or bonds of any State of the United States, or city or county bonds, or notes or bonds secured by mortgages or deeds of trust on unincumbered real estate, or upon such other good and sufficient security as the general board of directors may authorize: Provided, That no loans shall be made on personal security only.

SEC. 16. The general board of directors shall appoint an attorney for each department, and no loan shall be made within such department except upon the approval in writing of such attorney.

SEC. 17. The association shall have power to grant non-participating policies of insurance, endowment-, annuities, or any and all other description of contracts depending on the duration of human life, and all such policies and contracts shall be expressed to be non-participating, and the holder of any such policy or contract shall not thereby be held to be a member of the association or entitled to any share in its earnings, surplus, or profits.

SEC. 18. No policy-holder shall be personally responsible for debt, loss, or other liability or obligation of the association; nor shall any director or trustee be responsible except for such funds and property of the association as may come into his possession.

SEC. 19. Nothing in this charter shall be so construed as to prevent the association from doing business through agents, resident trustees, or branch board- of trustees in any State or Territory or part of a State or Territory not created a department, and the number of departments shall not exceed thirty.

SEC. 20. It shall be the duty of the general board of directors to cause to be prepared and published as soon as practicable after the first day of January in each year a statement of the business transactions of the association during the year ending December thirty-first preceeding and of its condition on that day. Such statement

shall exhibit a detailed account of receipts and disbursements and full schedules of assets and liabilities, including in the latter an amount equal to the reserve or net value of all policies in force by such table of mortality as the general board of directors may prescribe, with four per centum yearly interest. From the sur-
161 plus, if any, existing over all liabilities shown by a statement as aforesaid for the calendar year the general board of directors may, in its discretion, order a distribution to be made of such amount as they may deem advisable. The share of each member participating in the surplus divided shall be proportionate to the surplus contributed thereto by his own policy, making a just and equitable allowance for interest, mortality, and expenses, and regarding the terms and conditions of the policy, and such share shall be paid or applied on his policy *or* its anniversary next following such distribution (unless otherwise provided in the policy). The general board of directors shall have power to grant additional temporary insurance (for one year) on any participating policy to an amount not exceeding twenty five per cent. of the sum insured on the policy. Such additional insurance may be renewed from year to year or may be agreed to be continued by yearly renewal for a term of five years or ten years.

162 SEC. 21. All existing rules and regulations inconsistent with this charter and all former charters of the association are hereby rescinded, and this charter shall be subject to amendment in the manner prescribed in section fifteen (15) of an act of the General Assembly of the State of Missouri, approved March tenth, 1869, entitled "An act for the incorporation and regulation of life assurance companies." At all meetings held for the purpose of voting on amendments to this charter each member shall be entitled to vote in the manner set forth in the third sentence of the sixth section hereof.

INSURANCE DEPARTMENT, STATE OF MISSOURI.

I, John F. Williams, superintendent of the insurance department of the State of Missouri, do hereby certify that I have compared the foregoing copy of the amended charter of the Life Association of America with the original on file in this department, and that the same is a correct transcript therefrom and of the whole of said original.

In witness whereof I have hereunto set my hand and affixed my official seal, at city of St. Louis, this 27th April, A. D. 1881.

[SEAL.] (Signed) JOHN F. WILLIAMS, *Sup't.*

163 *Amended Charter of The Life Association of America, Approved September 30th, 1872, Referred to and Made Part of Complainant's Note of Evidence and Filed July 5th, 1884.*

(Copy.)

INSURANCE DEPARTMENT, STATE OF MISSOURI,
ST. LOUIS, MO., *September* 30, 1872.

It is hereby certified that the Life Association of America, a life assurance company organized under the laws of this State and located at St. Louis, has amended its charter in accordance with the provision of section 15 of an act of the General Assembly of the State of Missouri, entitled "An act for the incorporation and regulation of life assurance companies," approved March 10th, 1869, and pursuant to the same section of the said act the Life Association of America is hereby authorized to transact business under its amended charter.

In testimony whereof I, Miles Sells, superintendent of the insurance department of the State of Missouri, have hereunto set my hand and official seal the day and year first above mentioned.

164 [SEAL.] (Signed) MILES SELLS,
Superintendent.

Amended Charter of The Life Association of America.

SECTION 1. The name of this corporation shall be "Life Association of America," and by this name it shall have succession for the period of nine hundred and ninety-five years. Its principal office for the transaction of business shall be located in the city of St. Louis, State of Missouri, and shall be hereinafter referred to as the general office.

SEC. 2. This corporation shall have power and authority to make and issue, buy, sell, and grant, and otherwise acquire and dispose of, policies of assurance, endowments, annuities, and contracts of every description depending on the duration of human lives, and in general to do and perform every act and thing which may be lawfully done and performed by companies incorporated under and by the authority of an act of the General Assembly of the State of Missouri,
entitled "An act for the incorporation and regulation of life
165 assurance companies," approved March 10th, 1869.

SEC. 3. The business of this corporation shall be transacted on the mutual plan, except that non-participating policies may be issued as hereinafter provided. Each mutual policy-holder shall be a member of the corporation, and shall, when duly qualified, be eligible to any office thereof.

SEC. 4. The corporate powers of the association shall be exercised by a board of directors, sixty in number, to be called the general board of directors, and to be constituted in the manner following: Fifteen members, citizens of Missouri, shall be elected, as provided in sections five and six hereof; the remaining forty-five directors

shall be the presidents of the department boards of the forty-five departments organized or to be organized under this charter, each such president being *ex officio* a member of the general board of directors: Provided, however, That the presidents of such departments as shall be formed after any election shall not become *ex officio* mem-
166 bers of said board until its next annual election; and if at any time, from lack of organization of the full number of departments or for any other reason, there shall not be forty-five *ex officio* directors qualified as such the vacancies in the general board shall be filled as provided in the last clause of section five hereof. The general board of directors shall establish and conduct the business of said corporation within all the States and Territories of the United States and in foreign countries as soon as in their judgment the interests of said corporation may require; and in each State, Territory, or foreign country in which it shall transact business there may be organized departments and branches of the association in the manner and with the rights, powers, and privileges hereinafter provided, and for that purpose the general board of directors may appoint such subordinate officers and agents as in their judgment the business of the corporation may require.

SEC. 5. An election of directors of the general board shall
167 be made at a meeting to be held at the office of the association in the city of St. Louis on the Tuesday preceding the third Wednesday in the month of March of each year. Notice of such election shall be published once each week or oftener, for four weeks preceding such election, in a newspaper of general circulation published in each town or city where a department office is located. At all such elections the voting shall be by ballot, and each member of the association shall be entitled to cast one vote, and in addition thereto one vote for every one hundred dollars of the net present value of his policy or policies on December 31st preceding, as fixed by the standard of valuation of the association. Any person legally entitled to vote at any meeting of the association may cast his vote by proxy, subject to the provisions of an act of the General Assembly of the State of Missouri, entitled "An act for the incorporation and regulation of life assurance companies," approved March
168 10, 1869, and of such by-laws not inconsistent with the same as may from time to time be made by the general board of directors. All vacancies in said board, whether caused by death, resignation, or otherwise, shall be filled by the board for the time remaining until the next following election.

SEC. 6. At the first election held under this charter five directors shall be elected to serve for the term of one year each, five for the term of two years each, and five for the term of three years each; and, at each succeeding annual election, five directors shall be elected to serve for the term of three years each. Jas. H. Britton, T. J. Bartholow, Carlos S. Greeley, L. D. Dameron, W. C. Kennett, H. J. Spaunhorst, Henry W. Hough, Robert Barth, Felix Coste, E. G. Obear, Jno. T. Douglas, E. O. Stanard, Geo. H. Loker, James L. Minor, and Geo. H. Burckhartt shall serve as elected directors until the first election provided for in this charter, on the third Tuesday

of March, 1873, or until their successors shall have been duly elected and shall have signified their acceptance of office.

169 SEC. 7. No person shall be eligible to membership of any board of directors unless there shall be an assurance in the association on his life or in his name for an amount not less than ten thousand dollars.

SEC. 8. The general board of directors shall hold a regular meeting on the third Wednesday of each month. The president or secretary of the association may call a special meeting of the board at any time, and shall do so on the written request at any time of any five members of the board, by notice, stating the time and place of the meeting, a copy of which, addressed to each elected member of the board, shall be mailed to him or left at his usual place of residence or business office at least twenty-four hours before the time appointed for such meeting.

At any meeting a majority of the fifteen members elected under the fifth and sixth sections of this charter, with such of the other members of the board as may be present, shall constitute a quorum, and no business can be transacted at any meeting of said

170 board unless a majority of said fifteen elected members be present.

SEC. 9. The officers of this corporation shall be a president and one or more vice-presidents, a secretary, actuary, treasurer, medical officer, attorney, and such other officers as may be necessary for the transaction of the business. The president and vice-president of the association shall be elected annually by the general board of directors, from among the elected members thereof, at a meeting to be held on the day following the election of the general board of directors. They shall hold office for one year and until their successors shall have been duly elected and shall have signified to said board their acceptance of office. The other officers of the association shall be elected by the same board at a regular meeting or at any special meeting called for that purpose, and shall hold office during the pleasure of the board. The compensation of all officers and employés of the association shall be fixed by said board of directors.

SEC. 10. The present officers of this corporation and of

171 the various departments thereof shall continue in office until the next regular election, or until their successors shall have been duly elected and shall have signified their acceptance of office.

SEC. 11. The general board of directors may create departments of the association and designate the territory to be included within the same and the names by which they shall each be known, and whenever they shall judge proper may change the extent and boundaries of the same. Said board shall appoint and organize for every department when created a board of trustees, to be known as the board of trustees of said department. The general board of directors shall designate the number of trustees of which said board shall consist, and may at any time increase the same, or may diminish the number when vacancies occur, or may fill such vacancies.

SEC. 12. No person shall be eligible to membership of a department board of trustees unless there shall be an assurance in the association on his life or in his name for an amount not less
172 than ten thousand dollars, and unless he shall be a resident of such department. Every trustee when duly elected and commissioned shall continue to be a trustee so long as such assurance of ten thousand dollars (or of five thousand dollars in case of a resident trustee) shall be kept in force, unless he shall previously resign or be removed by the general board of directors for conduct injurious to the association.

SEC. 13. The board of trustees of each department shall annually, at a regular meeting to be held on the second Tuesday in the month of January, elect by ballot from among their own number a board of directors, which shall be known as the board of directors of said department, and shall consist of thirteen members, five of whom shall constitute a quorum for the transaction of business. At such election, and upon all other occasions where the members of the board of trustees shall have the right to vote, each trustee shall have one vote.

SEC. 14. The officers of each department board of directors
173 shall be a president, vice-president, and secretary. The president and vice-president of each department shall be elected annually by the department board of directors from among their own number at their first regular meeting, which shall be held in January of each year, after the annual election of said board. They shall hold office for one year and until their successors shall have been duly elected and shall have signified their acceptance of office. They shall be subject to removal, however, by a three-fourths majority of said board. The secretary shall be appointed by the general board of directors.

SEC. 15. The department board of directors may annually elect a treasurer, who shall, before entering upon the duties of his office, be approved by the general board of directors. He shall credit to the "Life Association of America" all moneys of the corporation coming into his hands, which shall be subject to the order of the association, and he shall, upon the tenth day of each month, remit to the treasurer of the association the balance remaining in his hands upon that day. He shall give a bond to the association for the faithful performance of his duties. In case no treasurer
174 should be elected by the department board of directors the general board of directors shall designate a depository in the place where the department board is located to receive the funds of the association.

SEC. 16. There shall be in each department a supervising agent, who shall be known as the general manager of said department, and who shall have the care and management of the business of the department under the direction of the general board of directors. The general manager of the department shall be appointed by the general board of directors. He shall be paid by and shall be responsible to them and shall hold office during the pleasure of said board. He shall be the executive officer of the department and

general board of directors in the organization of branch boards of trustees. He shall deposit daily with the treasurer or depository of the department all moneys of the association coming into his possession after deducting therefrom such disbursements as may be authorized in writing by the general board.

SEC. 17. The board of directors of each department shall hold a regular meeting on the tenth day of each month, at which
175 meeting reports shall be received from the general manager and secretary — the general business transacted within the department during the preceding month, together with such applications for loans as he may have received. The secretary's report shall show the condition of accounts between the department and the general office of the association. A copy of each of the above reports, duly certified, shall be forwarded to the general office of the association.

SEC. 18. The general board of directors may, by a commission issued by the president and secretary of the association to the department managers, create a branch board of trustees at any place within the territory of said department, or may elect and commission one or more resident trustees at any point within such territory other than the town or village at which the office of a branch board shall be located: Provided, however, That no person shall be a resident trustee unless there shall be an assurance in the association on his life or in his name for an amount not less than five thousand dollars.

176 SEC. 19. No person shall be eligible to membership in a branch board of trustees unless there shall be an assurance in the association on his life or in his name for an amount not less than ten thousand dollars. Every such trustee shall continue to be a trustee so long as said assurance of ten thousand — shall remain in force, unless he shall resign or be removed under the provisions of the 12th section of this charter. Whenever a vacancy shall occur in a branch board of trustees it shall be the duty of the general manager or, in his absence, the president of the department to nominate some person, to be approved by said board, for election by the general board of directors to fill the vacancy.

SEC. 20. The officers of each branch board of trustees shall be a president, vice-president, and secretary. The president and vice-president shall be elected annually by said board at a regular meeting, to be held on the second Tuesday in January of each year, and shall hold office for one year and until their successors shall have been elected and shall have signified their acceptance of office. The secretary shall be appointed by the manager, who shall be
177 responsible for his acts.

SEC. 21. Each branch board of trustees shall hold a regular meeting on the first day of each month, at which meeting a report shall be received from the secretary of the branch, which report shall contain a detailed account of the business transacted at said branch during preceding month. A copy of said report, duly certified, shall be forwarded to the department manager, together with such applications for loans as may have been approved by the board. Resi-

dent trustees of the association shall also, on the first day of each month, make a report of any business they may have transacted to the manager of the department with which they are connected.

SEC. 22. Every trustee of the association shall be empowered to receive written applications for assurance in the association, and when such applications are accepted, policies issued, and the premiums collected thereon, except upon the premiums of such policies as may have been issued to qualify persons as trustees, he shall be entitled to the following commission, to wit: Twenty per cent. on the
178 first annual premiums and seven and one-half per cent. on the second, third, and fourth annual premiums of life policies payable by ten or more annual premiums and endowments maturing in more than fifteen years; fifteen per cent. on the first annual premiums and five per cent on the second, third, and fourth annual premiums of policies paid for by not more than five annual premiums or maturing in not more than fifteen years, and four per cent. upon the premiums of policies paid for by a single payment. Such commissions shall cease whenever said trustee shall cease to be a trustee of the association.

SEC. 23. All policies of assurance, endowments, annuities, and contracts of every kind shall be signed by the president and secretary and sealed with the seal of the corporation.

SEC. 24. All assets, including the moneys, notes, bonds, mortgages, deeds of trust, and other securities of the association, shall be under the control of the general board of directors and in the custody of the treasurer or of such other person or persons as the general board of directors may appoint.

SEC. 25. All loans and investments shall be made in accord-
179 ance with such regulations regarding the examination of titles, estimations of values, and forms of conveyance as may be from time to time adopted by the general board of directors, but no loans shall be made upon the security of real estate for an amount exceeding one-half the value of the same.

SEC. 26. There shall be loaned and kept loaned in each department a sum equal to the net present value or premium reserve, as fixed by the association's standard of valuation, of all policies in force upon the lives of persons resident within such department: Provided, however, That no such loan shall be made except in the manner and upon the securities provided in section twenty-seven.

SEC. 27. The board of directors of each department shall loan the money to be invested in said department by the provisions of the twenty-sixth section hereof: Provided, That no such loan shall be made except after the approval by a majority vote of the department board of directors and subject to the provisions of the twenty-fifth section hereof, and unless the payment of the money so loaned and secured by mortgage or deeds of trust upon unincumbered
180 real estate, worth at least three times the amount loaned thereon and situated within such limits as shall be designated by the general board of directors: And provided further, That if the money to be loaned within any department on the securities mentioned in this section or upon such terms or at such rate of interest

as shall be satisfactory to the general board of directors, then until such loans can be so made such money shall be loaned or invested by the general board of directors under the provisions of the following section:

SEC. 28. The money and funds of the association not loaned under the provisions of the preceding section shall, subject to the provisions of section twenty-five, be invested in or loaned upon Treasury notes or bonds of the United States or bonds of any State of the United States or city or county bonds or notes or bonds secured by mortgages or deeds of trust on unincumbered real estate or upon policies of the association or upon such other good and sufficient security (not personal) as the general board of directors may authorize.

181 SEC. 29. The general board of directors shall appoint an attorney for each department, and no loan shall be made within such department except upon the approval, in writing, of such attorney.

SEC. 30. This corporation shall haye power to grant non-participating policies of assurance, endowments, annuities, or any and all other description of contracts depending on the duration of human life; and all such policies and contracts shall be expressed to be non-participating, and the holder of any such policy or contract shall not thereby be held to be a member of the corporation or entitled to any share in its earnings, surplus, or profits.

SEC. 31. After payment of two or more annual premiums on any policy if default be made in the payment of any subsequent premium when due the holder of such policy, notwithstanding such default, shall be entitled to receive from the association a paid-up policy, to mature at the same time as the original policy would have matured if continued, and for such proportion of the amount assured under the original policy as the number of the premiums actually paid thereon shall bear to the whole number stipulated

182 to be paid thereon: Provided, That the original policy be transmitted to and received by the association and application made for such paid-up policy within six months after default shall first be made in the payment of premium on the original policy; And provided further, That all then outstanding premium notes, loans, or liens on the original policy not canceled by dividends be paid in cash, or if not so paid shall become an indebtedness upon and lien against the paid-up policy, bearing interest at the rate of eight per cent. per annum, payable annually in advance.

SEC. 32. If the holder of any policy shall, after payment of two or more annual premiums on his policy, desire to surrender it, then, in lieu of the paid-up policy issuable under the provisions of the thirty-first section hereof, he shall be entitled to receive in consideration of such surrender the whole actual reserve, including surplus of such policy, subject to such equitable deduction as the general board of directors may by by-laws prescribe; but the amount of surrender value so payable shall be a sum at least equal to four-fifths of the net present value, by the American table of mortality,

183 and four and one-half per cent. interest of the paid-up policy

which would be issuable under the provisions of the thirty-first section of this charter: Provided, That no surrender value shall be payable on any policy until it shall have lapsed by non-payment of premium, and that application for such value must be made to the association within six months from the day on which the policy shall have lapsed by non-payment of premiums as aforesaid: And further provided, That the general board of directors may by a by-law require thirty days' notice to be given to the association by the holder of any policy of his intention to surrender it, and in such case the surrender value shall not be payable until the expiration of thirty days after the receipt of such notice by the association.

SEC. 33. Nothing contained in this charter shall be so construed as to prevent the association from issuing policies expressly stipulated not — be subject to the provisions respecting paid-up policies and surrender values contained in the thirty-first and thirty-second sections hereof, or policies in which said provisions shall be expressly made applicable only after payment of more than
184 two annual premiums, or policies in which there shall be express stipulations as to the term of years which shall elapse before the devisible surplus belonging to such policies shall be apportioned upon them, but no such policies nor any others shall be issued by the association except upon plans which shall be publicly made known and which, so long as policies are issued on them, shall be open alike to all fit subjects for assurance.

SEC. 34. Whenever the time of holding any meeting, as fixed in this charter, shall fall upon a Sunday or a holiday such meeting shall be held on the next succeeding day not a Sunday or a holiday.

SEC. 35. Should any department or branch board fail to hold any meeting for the election of officers, as required by this charter, such meeting shall be held and such election shall take place as the general board of directors shall determine.

SEC. 36. No policy-holder shall be personally responsible for any debt, loss, or other liability or obligation of the association, nor shall any director or trustee be responsible, except for such funds
185 and property of the association as may come into his possession.

SEC. 37. Nothing in this charter shall be so construed as to prevent the association from doing business through agents, resident trustees, or branch boards of trustees in any State or Territory or a part of a State or Territory not created a department, and the number of departments shall not exceed forty-five.

SEC. 38. It shall be the duty of the general board of directors to cause to be prepared and published, as soon as practicable after the first day of January in each year, a statement of the business transactions of the association during the preceding year, and of its condition on the thirty-first day of December thereof. Such statement shall exhibit a detailed account of receipts and disbursements and full schedules of assets and liabilities, including in the latter the amounts necessary to safely reinsure all outstanding risks. From the surplus, if any, existing over all liabilities the general board of directors may in its discretion order a distribution to be made, of

such amounts as they may deem advisable, among those
186 participating policy-holders whose policies at the time of such distribution shall have been in force for one full year or more (except as may be otherwise stipulated in the policies). The share of each member participating in the surplus divided shall be proportionate to the surplus contributed thereto by his own policy, making a just and equitable allowance for interest, mortality, and expenses, and such share shall be paid or applied on his policy on its anniversary next following such distribution (except as may be otherwise stipulated in the policy).

SEC. 39. The general board of directors may make such by-laws, rules, and regulations for the government of the business of the association as they may deem proper not inconsistent with the provisions of this charter.

Approved September 30th, 1872.

Articles of Association of The Life Association of America, with the Certificate of John F. Williams, Superintendent, Referred to and Made Part of Complainant's Note of Evidence and Filed July 5th, 1884.

STATE OF MISSOURI, INSURANCE DEPARTMENT.

187 I, John F. Williams, superintendent of the insurance department of the State of Missouri, do hereby certify that I have compared the annexed copy of the articles of association of the Life Association of Missouri with the original on file in this department, and that the same is a correct transcript therefrom and of the whole of said original.

In witness whereof I have hereunto set my hand and affixed my official seal, at the city of St. Louis, this seventh day of February, A. D. 1882.

[SEAL.] (Signed) JOHN F. WILLIAMS,
Superintendent.

Articles of Association of the Life Association of Missouri.

We, the undersigned, for the purpose of forming a mutual life insurance company under and pursuant to the provisions of title XXIV of the General Statutes of the State of Missouri relating to private corporations and of chapter 62 and of chapter 67 of said title and General Statutes, have associated, and do hereby associate,
ourselves together as a body politic and corporate under the
188 corporate name and for the objects and purposes hereinafter mentioned, said corporation to enjoy all the rights, powers, and privileges conferred by law and to be subject to the regulations set forth in the above-mentioned statutes and contained in such constitution and by-laws as said corporation may from time to time hereafter lawfully adopt, and we do hereby adopt the following articles of association:

Article I. The name of this corporation shall be "Life Association of Missouri."

Article II. The domicile and chief place of business of this corporation shall be the city of St. Louis, in the county of St. Louis and State of Missouri.

Article III. This corporation shall be and constitute a mutual life insurance company for the purpose of carrying on the business of life insurance upon the mutual plan only. It shall have the power to make and enter into contracts and agreements for insurance on the life or lives of any person or persons; to issue policies of insurance of every kind and nature for the insurance of human life; to grant and sell annuities of every kind for life or term of
189 years; to reinsure itself against loss on or by any risk or risks which may be or shall have been taken by said corporation; to purchase for its own benefit any policy or policies of insurance or any other obligations issued by said corporation, and in general said corporation shall have power to do and perform every act and thing belonging and pertaining to life insurance, and shall exercise and enjoy all rights, powers, and privileges granted or intended to be conferred upon mutual life insurance companies by the said statutes of Missouri.

Article IV. The property, business, and affairs of this corporation shall be managed and conducted by a board of nine directors until the number shall be changed to thirteen in manner provided by law, the members of which board shall be policy-holders in said corporation, and shall be elected by the policy-holders in said corporation annually on such day and at such place as the by-laws of said corporation may prescribe.

Article V. This corporation shall continue for nine hundred and ninety-nine years from the date of the incorporation thereof, with all the rights, privileges, and powers aforesaid.

190 Article VI. The names and residences of the persons hereby associated as aforesaid are respectively set forth below, and said persons have deposited with the treasurer *pro tem.* of this association the amounts set opposite their names as the first annual premiums on policies which they have agreed, and hereby agree, each with the others, to take in said mutual life insurance company as soon as the same shall be incorporated.

Article VII. The following persons shall be the first board of directors: John J. Roe, John How, Robert Barth, Amos Cotting, Wm. D'Oench, Henry W. Hough, Carlos S. Gruly, Felix Coste, Edwin O. Stannard, all of the city of St. Louis, State of Missouri.

Names.	Residence.	Am'ts deposited.
Henry W. Hough	St. Louis, Mo.	$643
R. W. Church	"	560 80
Jos. W. Goddard	"	602 80
Amos Cotting	"	643
Chas. S. Bodley	"	776 40
R. S. Hart	"	650 20
G. B. Bissell	"	661 40
Jno. M. Platt	"	841 80
Jno. R. Limberger	"	687
W. H. Maurice	"	746 20

	Names.	Residence.	Am'ts deposited.
191	Jno. B. Sayres	St. Louis, Mo.	$538 80
	S. M. Moody	"	626 40
	J. A. Bartlett	"	625 40
	J. H. Newton	"	626 40
	Joseph Bogy	"	626 40
	Robert Bartt	"	891 70
	Lewis V. Boyn	"	922 40
	Lewis Birman	"	581
	Wm. Rover	"	637 20
	Hugh L. White	"	625 40
	Jno. K. Erickson	"	650 20
	Felix Coste	"	841 80
	W. L. Soker	"	469 40
	Louis Duestrow	"	614 40
	John J. Roe	"	1,053 40
	W. D'Oench	"	952 40
	Robert Heinuchopen	"	661 40
	S. A. Shortridge	"	602 80
	Werner Meyer	"	687
	N. W. Perkins	"	746 20
	Sam. McCartney	"	913 60
	Chas. G. Bresiezer	"	579 60
	G. H. Soker, Jr.	"	501 80
	B. R. Pegram	"	643
	W. C. Kennett	"	891 70
	Martin Collins	"	666 40
	J J. McDonald	"	650 20
	J. W. Jennings	"	593
	H. E. Collins	"	538 30
192	Henry T. Blow	"	822 30
	D. N. Greenleaf	"	687
	Wm. Niehaus	"	625 20
	John W. Godfrey	"	1,235
	Wm. H. Wilde	"	1,192 20
	E. O. Stannard	"	614 40
	Hugh R. Hildredth	"	593
	Wiley S. Wright	"	841 80
	Henry M. Noel	"	579 60
	J. M. Z. Withrow	"	558 60
	M. D. Hetzell	"	614 40
	Isaac M. Veitch	"	842 30
	Jos. Hamill	"	952 40
	E. B. Brown	"	974
	Logan D. Dameron	"	643
	Frank P. Blair	"	841 80
	W. R. Hodges	"	602 20
	Geo. Sherman	"	625 40
	Barton Able	"	776 40
	J. Y. Schiefer	"	666 40
	A. L. Lacroix	"	776 40

	Names.	Residence.	Am'ts deposited.
	Rich'd Merkle	St. Louis, Mo.	$666 40
	Albert E. Hall	"	650 20
	David H. Bishop	"	865 80
	Jno. V. Hogan	"	469 40
	Thos. J. Montgomery	"	691 60
	John C. Bull	"	602 20
	J. T. McCord	"	581
	Charles Speck	"	666 40
193	J. H. Britton	"	822 30
	W. Patrick	"	891 70
	John Pittman	"	581
	Chauncey J. Filley	"	687
	John How	"	1,301 20
	Geo. R. Robinson	"	691 60
	Jno. Lewis	"	637 20
	W. H. Markham	"	666 40
	H. M. Woodward	"	841 80
	F. W. Rosenthal	"	637 20
	Wm. J. Campbell	"	626 40
	Wm. Taussig	"	691 60
	Taylor Blow	"	913 60
	Jno. H. King	"	538 80
	Jno. P. Thompson	"	602 40
	C. S. Greeley	"	922 40
	C. W. Thomas	"	650 20
	Chas. Taussig	"	808 40
	Jno. N. Pritchard	"	922 40
	A. H. Weber	"	560 80
	Morris Taussig	"	691 60
	Geo. D. Hull	"	637 20
	W. B. Hanseltine	"	718
	Henry W. Blanke	"	650 20
	H. H. Wernse	"	560 80
	Jas. R. Shaler	"	637 20
	Jno. L. Ganghorn	"	614 40
	E. S. Rowse	"	661 40
	Geo. J. Cochrane	"	626 40
194	Henry W. Smith	"	842 30
	D. A. Jannans	"	891 70
	Jno. H. Bench	"	637 20

STATE OF MISSOURI, } ss:
County of St. Louis, }

John N. Pritchard, Henry W. Hough, and John P. Thompson, being duly sworn, make oath and say that the names subscribed to the foregoing articles of association of the Life Association of Missouri are the genuine signatures of the persons forming said associ-

ation, and that the amounts set opposite the respective names have been actually paid, as therein set forth.

JNO. N. PRITCHARD.
HENRY W. HOUGH.
JNO. P. THOMPSON.

Sworn to and subscribed before me this 13th day of June, A. D. 1868.

Witness my hand and the seal of the circuit court of St. Louis county.

[SEAL.] JNO. LEWIS, *Clerk.*

Endorsement: No. 168½. Articles of association of the
195 "Life Association of Missouri." Filed June 13th, 1868. Jno. Lewis, clerk.

$2.50, paid.

Received April 23, 1869, from clerk St. Louis circuit court.

C. E. KING,
Deputy Sup't.

Amended Charter of the Life Association of America, Approved October 2, 1869, Referred to and Made Part of Complainant's Note of Evidence, and Filed July 5th, 1884.

STATE OF MISSOURI, INSURANCE DEPARTMENT.

I, John F. Williams, superintendent of the insurance department of the State of Missouri, do hereby certify that I have compared the annexed copy of the amended charter of the Life Association of America with the original on file in this department, and that the same is a correct transcript therefrom and of the whole of said original.

In witness whereof I have hereunto set my hand and affixed my official seal, at the city of St. Louis, this eighth day of February, A. D. 1882.

196 [SEAL.] (Signed) JOHN F. WILLIAMS,
Superintendent.

Amended Charter.

SECTION 1. The name of this corporation shall be "Life Association of America," and by this name it shall have succession for the period of nine hundred and ninety-eight years. The principal office for the transaction of its business shall be located at the city of St. Louis, State of Missouri.

SEC. 2. This corporation shall have power and authority to make and issue policies of assurance on the lives of individuals, and to buy, sell, grant, and otherwise acquire and dispose of the same, and also to buy, sell, grant, and otherwise acquire and dispose of endowments and annuities of every description on the lives of both of

infants and adults, and in general to do and perform every act and thing which may be lawfully done and performed by mutual life assurance companies incorporated under and by the authority of an act of the General Assembly of the State of Missouri entitled "An act for the incorporation and regulation of life assurance companies," approved March 4th, 1869: Provided, however, That no form
197 of policy shall be issued which shall not be open alike to all persons who are fit subjects for assurance.

SEC. 3. This corporation shall have power to do business in each State and Territory of the United States and in foreign countries; and each State, Territory, or country in which it shall transact or intend to transact business or any part of the same may be formed into departments and branches of the company in the manner and with such rights, powers, and privileges as are hereinafter provided.

SEC. 4. This corporation shall transact business on the mutual plan only, and each policy-holder shall be a member, and, when duly qualified, shall be eligible to every office of the company, and shall be entitled to participate equitably in the government, earnings, and surplus of the same and in all other privileges and advantages connected therewith.

General board of directors.

SEC. 5. The general management of the corporation shall be vested in a board of directors, to be known as the "general board of directors," to consist of one hundred members, including such
198 persons as are members *ex officio*. Said directors, with the exception of such as are directors *ex officio*, shall be residents of the State of Missouri, and shall be elected annually at a meeting to be holden at the principal office of the company, in the city of St. Louis, on the last Tuesday in the month of January in each year. Notice of such election shall be given by publication once in each week or oftener for at least four weeks in a newspaper of general circulation published in each town or city where the chief office of any department is located, if any such newspaper shall be published in said town or city. The president of each department board of directors shall be a member *ex officio* of the general board of directors, and shall be entitled to participate in the proceedings of the board at all meetings, regular or special, in the same manner as elected members: Provided, however, That the presidents of such departments as shall be formed aft r any annual election shall not became *ex officio* members of said board until the next annual election.
199 All vacancies in said board, whether caused by death, resignation, or otherwise, may be filled by the board.

SEC. 6. There shall be a special election of a general board of directors, at the principal office of the company, in the city of St. Louis, within forty days after the company shall have received from the superintendent of the insurance department his certificate of authority to do business under this charter. Notice of such election shall be given in the manner provided by the preceding section for

annual elections. The board chosen at such election shall continue to act until the regular election on the last Tuesday in the next succeeding January and until their successors are duly elected. Said board shall, as soon after their election as expedient, elect the officers mentioned in the sixteenth section, who shall hold office during the term of said board and until their successors are appointed, and also the standing committees mentioned in the tenth section, who shall act during the same term.

SEC. 7. No person shall be eligible to membership of the
200 general board of directors unless he shall have a policy or policies of assurance in this company on his own life or shall be the legal holder of one or more policies on the life or lives of some other person or persons for an amount not less than ten thousand dollars.

SEC. 8. The general board of directors shall have the general care and oversight of the business and interests of the company and make by-laws for their own government and for the management and regulation of the business of the company and for regulating all elections. They shall have power, subject to the provisions of this charter, to make assurance on the lives of individuals and to issue such policies of endowment and annuities as the company, by the authority of this charter, have a right to make and issue, and to change, annul, purchase, and dispose of the same; to create departments and branches of the company, and to enter into contracts with the same and with the individuals comprising them; to appoint and commission trustees, and to make
201 rules and regulations for the management of the business of the departments and districts and for directing the operations of branch boards of trustees and agents. They shall also have the control and management of the affairs and business of the home department. Said board shall have power to elect its own officers, who shall be the officers of the company, and to appoint general managers of the department, and to fix the compensation of such officers and managers; to enter into contract for the company with agents and employés, and at any time to remove from office and position as trustees all officers and trustees who shall be guilty of conduct calculated to injure the company, and to elect others in their place. They shall also provide for and direct the investment and reinvestment of the funds and the safe-keeping of the moneys, securities, and other property of the company. Said board may also delegate such power and authority and impose such duties in addition to those mentioned in the tenth section of this charter, and in general may do and perform all other acts and things
202 needful and necessary to be done and performed by said general board of directors in carrying out the objects and purposes and in advancing the interests of said company.

SEC. 9. The general board of directors shall hold five regular meetings each year, which shall be holden on the second Tuesday, respectively, in the months of January, February, May, August, and November, respectively. The acting president and secretary of the company may call a special meeting of the board at any time

by a notice, stating the time, place, and object of the meeting, a copy of which, addressed to each member of the board, shall be deposited in the post office at least ten days before the day of such meeting. At any regular meeting a number equal to one-third of all the elected members, and at a special meeting thirteen members, shall constitute a quorum for the transaction of business.

Committees.

SEC. 10. At its regular meeting in February the general board of directors shall elect from its own members four standing
203 committees, which shall serve for the ensuing year and till their successors are elected. These committees shall be known as the "finance committee," the "committee on business and agencies," the "committee on accounts and collections," and the "examining committee;" and, in addition to the powers and duties herein specially stated, said committees shall have such powers and discharge such duties as the general board of directors may from time to time confer and impose upon them, but they shall at all times and in regard to all their actions and duties be subject to the control of the general board of directors. Each committee shall have power to fill any vacancy that may occur in its membership by death, resignation, or otherwise. The members of the four above-mentioned committees shall together constitute a fifth committee, to be known as the "executive committee." It shall exercise the powers and perform the duties conferred and imposed upon it from time to time by the general board of directors.

SEC. 11. The finance committee shall consist of three mem-
204 bers. It shall hold a regular meeting on Tuesday of each week, at which meeting it shall receive from the treasurer a report of the finances of the company, which shall show the receipts and disbursements for the preceding week, and be accompanied by the proper vouchers. The committee shall carefully examine such reports and cause copies of the same, together with their action thereon, to be recorded in the minutes of said committee. It shall also superintend the investment of funds belonging to the company, subject, however, to the direction of the general board of directors and the provisions of this charter.

SEC. 12. The committee on business and agencies shall consist of three members, together with the acting president and the secretary, who shall be *ex officio* members of the committee. It shall hold a regular meeting on the second Tuesday of each month. This committee shall have charge of all matters pertaining to the management of departments, branches, and agencies, and no
205 contract with any department, branch, or agent shall be made or entered into except by the authority of this committee, nor shall any policy of assurance or endowment be issued until the application therefor shall have been submitted to and approved by said committee. Two members of this committee, one of whom shall be an elected member, shall attend at the office of the company daily, at such hour as may be fixed upon by the committee, and shall be

competent to exercise the powers and perform the duties of the committee so far as the same shall pertain to the current daily business, but at regular monthly or special meetings no business shall be transacted unless a majority of the members be present.

SEC. 13. The committee on accounts and collections shall consist of three members, together with the acting president and the secretary, who shall be *ex officio* members of the committee. It shall hold a regular meeting on the twentieth day of each month. At this meeting the committee shall examine reports of business received from departments, branches, and agencies, and such other
206 matters as may be referred to them by the daily acting committees. Two members of this committee shall attend at the office of the company daily, at such hour as may be fixed upon by the committee, and shall be competent to exercise the powers and perform the duties of the committee so far as the same shall pertain to the current daily business, but at regular monthly or special meetings no business shall be transacted unless a majority of the members are present. It shall be their duty to examine the current daily accounts, including the receipts and expenditures of the office, and the accounts of the company, and to communicate with the departments, branches, and agents in regard to the condition of their accounts, and to cause the treasurer to draw upon them for funds. Every check or draft on the treasurer shall be countersigned by a member of this committee, and it shall be the duty of the treasurer to refuse payment of every check, draft, or order which shall not have been so countersigned.

207 SEC. 14. The examining committee shall consist of three members, and shall hold a regular meeting on the first Tuesday in the months of January, May, August, and November of each year. It shall be the duty of this committee to examine all the general accounts of the company and present a report of the same at each regular meeting of the general board of directors, excepting the meeting in February. No officer of the company or member of either of the other three standing committees shall be a member of or act with the examining committee.

SEC. 15. The acting president or acting secretary of the company may call a special meeting of any of the aforesaid committees at any time by leaving a notice thereof, in writing, with each of the members of the committee or at his residence or place of business.

Officers.

SEC. 16. The officers of the general board of directors of this corporation shall be a president and one or more vice-presidents, a secretary, assistant secretary, actuary, treasurer, medical officer, and attorney. The officers of the general board of directors shall be the officers of the company and shall be designated and shall
208 sign their names as such. They shall perform such duties as are specified in this charter and such as may be required of them by general board of directors.

SEC. 17. The president and vice-president or vice-president of the company shall be elected annually by the general board of directors from among their own number at the regular meeting to be holden on the second Tuesday of February in each year. They shall hold office for one year and until their successors shall have been duly elected and shall have signified to said board, in writing, their acceptance of office. The other officers of the company shall be elected by the same board at any regular meeting or at any special meeting called for that purpose and shall hold office during the pleasure of the board. The compensation of all officers of the company shall be fixed by the board of directors.

Voting.

SEC. 18. At any election for members of the general board of directors and upon all other occasions where voting shall be by ballot each member of the company shall be entitled to cast one
209 vote and, in addition thereto, one vote for every one hundred dollars of the then net present value of his policy or policies as fixed by the standard of valuation of the company. The voting at all elections shall be by ballot. Any person legally entitled to vote at any meeting of the company may cast his vote by proxy, subject to the provisions of an act of the General Assembly of the State of Missouri entitled "An act for the incorporation and regulation of life assurance companies," approved March 4th, 1869, and of such by-laws, not inconsistent with the same, as may from time to time be made by the general board of directors.

Reports of committees and officers.

SEC. 19. Each of the committees mentioned in the tenth section of this charter and also the secretary, actuary, treasurer, and medical officer of the company shall, during the first week in January of each year, make a report to the president of the company of their action and of the business transacted during the year ending on the last day of the preceding December, together with such suggestions and recommendations as they may deem advisable.

210 SEC. 20. The president shall make an annual report to the general board of directors of the business and condition of the company for the year ending on the last day of the preceding December, together with such suggestions as he may deem advisable. His report shall be submitted to the board at its regular meeting, on the second Tuesday in January, but such report shall include a copy of the reports of the committees and officers mentioned in the nineteenth section.

Departments.

SEC. 21. The general board of directors or the executive committee, by authority, general or special, of said board, may create departments of the company, not to exceed forty in number, and

designate the territory to be included within the same and the names by which they shall each be known, and, whenever they shall judge proper, may change the extent and boundaries of the same. Said board or the executive committee, in like manner authorized, shall appoint and organize for every department,
211 when created, a board of trustees, to be known as the board of trustees of said department. The general board of directors or the executive committee shall designate the number of trustees of which such board shall consist, and may at any time increase or diminish the same. The department boards of trustees shall have supervision of their respective departments, subject, however, to the provisions of this charter.

SEC. 22. No person shall be eligible to membership of a department board of trustees unless he shall have a policy or policies of assurance in this company on his own life or shall be the legal holder of one or more on the life or lives of some other person or persons for an amount not less than ten thousand dollars. Every trustee, when duly elected and commissioned, shall continue to be a trustee so long as such policy of ten thousand dollars shall be kept in force unless he shall previously resign, remove out of the department, or be removed under the provisions of the eighth section.

212 SEC. 23. The board of trustees of each department shall annually, at a regular meeting to be holden on the second Tuesday in the month of January, elect from among their own number a board of directors, which shall be known as the board of directors of said department, and shall consist of thirteen members, five of whom shall constitute a quorum for the transaction of business. At such election, and upon all other occasions where the members of the board of trustees shall have the right to vote, each trustee shall cast one vote.

SEC. 24. Each department board of directors shall have power to make such by-laws for their own government and the regulation of business as shall not conflict with this charter or with such rules and regulations as shall from time to time be adopted by the general board of directors.

SEC. 25. The officers of each department board of directors
213 shall be a president, vice-president, secretary, treasurer, and medical officer. The officers of the department board of trustees shall be officers of the department and shall be designated and sign their names as such. The president and vice-president of each department shall be elected annually by the department board of directors from among their own number at their first regular meeting, which shall be holden in January of each year after the annual election of said board. They shall hold office for one year and until their successors shall have signified their acceptance of office. They shall be subject to removal, however, by a three-fourths majority of said board. The secretary shall be nominated by the general board of directors and, with the treasurer and medical officer, shall be elected at the same meeting at which the president and vice-president shall be elected, or at any other meeting of the board called for that purpose. The secretary, treasurer, and medical

officer shall hold office during the pleasure of the depart-
214 ment board. The medical officer shall, before he proceeds to discharge the duties of his office, be approved by the medical officer of the company, and shall be removed whenever his removal shall be recommended by that officer. Any vacancy in the office of medical officer shall be filled by the department board of directors, subject to approval as aforesaid.

SEC. 26. The board of directors in each department, in conjunction with a supervising agent, who shall be known as the general manager of said department, shall have the care and management of the business of the department, subject to the directions of the general board of directors. The general manager of the department shall be appointed by the general board of directors or by the executive committee; he shall be paid by and shall be responsible to the general board of directors and shall hold office during the pleasure of said board; he shall be the executive officer of the department and general board of directors in the organization of branch boards of trustees and in superintending the busi-
215 ness of the same, and in the event of a vacancy at any time in the office of secretary of the department he shall perform the duties of that office.

SEC. 27. The general board of directors shall create one department, in which shall be included the city of St. Louis, and which shall be designated as the home department. This department shall be under the management and control of the general board of directors.

SEC. 28. Such portion of the receipts of each department, except the home department, as is provided to be invested therein by the fifty-first section of this charter shall be retained by the board of directors of the department and kept in the custody of the treasurer, subject to the provisions of this charter in regard to investments. The balance of such receipts, after deducting from the same such amounts for the expenses of the department and the commissions of its trustees and agents as are provided by this charter and authorized by the general board of directors or the executive committee, *and* shall be forwarded each month to the treasurer of the
216 company at St. Louis.

SEC. 29. The board of directors of each department, except the home department, shall hold a regular meeting on the tenth day of each month, at which meeting reports shall be received from the general manager, secretary, and treasurer of the department. The general manager's report shall contain a detailed exhibit of the business transacted within the department during the preceding month, a statement of the accounts between the department and each district agent, and a copy of each district agent's report, together with such applications for loans as he may have received. The secretary's report shall show the condition of accounts between the department and the principal office of the company. The treasurer's report shall show the amount of funds received and disbursed during the preceding month, accompanied by proper vouchers, and shall also show the amount on hand and where the same is de-

posited. A copy of each of the above reports, duly certified, shall be forwarded to the principal office, to the secretary of the
217 company. It shall be the duty of the secretary, general manager, and all other department treasurer- — such funds as may come into their possession, and all disbursements at department offices shall be made by check on said treasurer drawn by the department president and countersigned by the secretary.

Districts.

SEC. 30. The general board of directors or the executive committee, by authority, general or special, of said board, may at the time of creating a department, or at any time thereafter, authorize the president or secretary of the company to divide the territory of any department into districts, and by special commission, directed to the department manager, authorize him to appoint a district agent for each district. The department manager shall have power to remove such agent whenever, in his opinion, the interests of the company shall require his removal. The commission shall designate the place where the office of such district agent shall be located.

SEC. 31. The business of each district and the operations of
218 the branch boards of trustees, and of all resident trustees and agents of the company within such district shall be superintended by the district agent under the supervision of the department to which the district belongs, subject, however, to such rules and regulations as the general board of directors may from time to time adopt.

Branches.

SEC. 32. The general board of directors or the executive committee, by authority, general or special, of said board, may by a commission issued by the acting president and secretary of the company to the department manager, create a branch board of trustees at any town or village within the territory belonging to any district, or may elect and commission one or more resident trustees at any point within such territory, other than the town or village at which the office of a branch board shall be located: Provided, however, That no person shall be a resident trustee unless he shall have a policy or policies of assurance in this company upon his own life, or be a legal holder of a policy or policies in this company on the life or lives of some other person or persons for an amount not less than five
219 thousand dollars. The commission creating a branch board shall set forth the name by which the branch board *shall set forth the name by which the branch board* shall be known, the number of members of which the branch board shall consist, and the territory which shall be under its control.

SEC. 33. No person shall be eligible to membership in a branch board of trustees unless he shall have a policy or policies of assurance in this company on his own life or shall be the legal holder of a policy or policies on the life or lives of some other person or persons for an amount not less than ten thousand dollars. Every such

trustee shall continue to be trustee so long as said policy of ten thousand dollars is kept in force, unless he shall remove from the county or parish in which he shall have resided at the time of his election or resign or be removed under the provisions of the eighth section of this charter. In case of a vacancy in the membership of a branch board of trustees it shall be the duty of the district agent, through the general manager of the department, to nominate some person, to be approved by said board, for election by the general board of directors to fill the vacancy.

220 SEC. 34. The officers of each branch board of trustees shall be a president, vice-president, secretary, treasurer, and medical examiner. They shall be elected annually by said board at a regular meeting, to be holden on the second Tuesday in January of each year, and shall hold office for one year and until their successors shall have been elected and shall have signified their acceptance of office. They shall be subject to removal by the board. The medical examiner shall, before he proceeds to discharge the duties of his office, be approved by the medical officer of the company, and shall be removed whenever his removal shall be recommended by that officer. Any vacancy in the office of such medical examiner shall be filled by the board of trustees, subject to approval as aforesaid.

SEC. 35. The board of trustees of each branch and the members of the same shall have the exclusive right to solicit business and receive applications for assurance in such territory as shall be mentioned in the commission appointing the board, subject, however, to the provisions of the thirty-seventh section of this charter, and

221 provided that the district agent shall have the right to solicit business and receive applications at any place within his own district. Said board shall also have power to employ, on their own account, local agents and solicitors to work for them within said territory, and, in consideration of the commissions allowed them by the company, to compensate such agents and solicitors in such manner as they may deem proper, provided that the company shall be in no way liable for the compensation or acts of such local agents and solicitors.

SEC. 36. In consideration of their services and of the compensation granted by them to their agents and solicitors, as provided by the preceeding section, and to their members, as provided by the forty-first section, each branch board shall receive from the company a commission on all business transacted within the territory under their control, by their members, agents, and solicitors, of twenty per cent. on the first annual premiums and seven and one-half per cent. on all renewal premiums as soon as the same are collected.

SEC. 37. Whenever, for three consecutive months, any branch board shall fail to do sufficient business to yield an income from first annual premiums of fifty dollars per month for each one

222 thousand inhabitants belonging to the territory of said branch it shall become the duty of the department manager to appoint such special and local agents as he may consider necessary for a safe and vigorous prosecution of business within said territory. When such agents are so appointed it shall be the duty of the board

of trustees of such branch to co-operate with and render them such aid and assistance in the prosecution of business as may be necessary and reasonable. Such agents may be removed by the department manager whenever, in his opinion, the business of the company within the territory of the branch will be successfully conducted by the branch board.

SEC. 38. Each branch board of trustees shall hold a regular meeting on the first day of each month, at which meeting reports shall be received from the secretary and treasurer of the board. The secretary's reports shall contain a detailed account of the business transacted by the board during the preceeding month. The treasurer's report shall show the condition of the accounts between the branch and the district agent. A copy of said reports, duly certified, shall be forwarded to the district agent. Resident trustees of the company shall also, on the first day of each month, make a
223 report of any business they may have transacted to the district agent of the district with which they are connected. Branch boards, resident trustees, and agents of the company shall at the time of making such monthly reports transmit to the district agent such funds belonging to the company as they may have received, after deducting from the same such amounts for commissions as they have been authorized to receive.

SEC. 39. The district agent shall, on the sixth day of each month, forward to the general manager of the department with which he is connected a full report of all the business done within his district during the preceeding month. Such report shall embrace copies of the reports of each branch board, resident trustee, and agent of the company within his district. Such district agent shall also forward with his monthly report such applications for loans as he may have received from branch boards of trustees, with copies of all official correspondence in relation thereto, and all funds of the company which he shall have received.

Commissions to trustees.

SEC. 40. Every trustee of the company who shall be a member of a department board shall be empowered to receive written applications for assurance in the company within his department
224 and, when such applications are accepted and policies issued thereon, shall be entitled to a commission of twenty per cent. on the first annual premiums and seven and a half per cent. on all renewal premiums on said policies as soon as the premiums shall have been collected. Such commissions shall be paid to said trustees as long as the company shall receive premiums on the policies and said trustee shall continue to be a trustee of the company.

SEC. 41. Every trustee of the company who shall be a member of a branch board shall be empowered to receive written applications for assurance in the company within the territory mentioned in the commission creating the branch and, when such applications are accepted and policies issued thereon, shall be entitled to a commission from the branch board to which he belongs of fifteen per cent

on first annual premiums and five per cent. on all renewal premiums on said policies as soon as the same shall be collected. Such commissions shall be paid to said trustee by the branch board to which he shall belong as long as the company shall receive pre-
225 miums on said policies and said trustee shall continue to be a member of said board.

SEC. 42. Every resident trustee of the company shall be empowered to receive written applications for assurance in the company within the territory mentioned in his commission and, when such applications are accepted and policies issued thereon, he shall be entitled to receive a commission from the district agent of the district to which he belongs of fifteen per cent. on first annual premiums and five per cent. on all renewal premiums as soon as the same shall be collected. Such commissions shall be paid to said trustee by the district agent of the district to which he belongs as long as the company shall receive premiums on said policies and said trustee shall continue to be a trustee.

Policies—Conditions.

SEC. 43. All policies of assurance, endowments, and annuities of every kind shall be signed by the acting president and the acting secretary and sealed with the seal of the company.

SEC. 44. Whenever any policy-holder shall fail to make payment of premiums, as required by the conditions of his policy, be-
226 fore two full annual premiums shall have been paid, such policy-holder shall cease to be a member of the company by virtue of such policy, and such policy and all moneys paid on account of same shall be forfeited to the company: Provided, however, That any member whose policy shall be so forfeited shall be reinstated and his policy restored if he shall, within thirty days after such forfeiture, pay the sum due upon the policy, together with an amount equal to ten per cent. per annum upon such sum for the time the same shall have been overdue.

SEC. 45. Whenever any member shall have made payment of two or more annual premiums, as required by the conditions of his policy, and shall fail to pay any further premiums when the same shall become due, the premiums paid on such policy shall not be forfeited, nor shall he lose his membership in the company, but such policy shall become a paid-up and commuted policy for such sum as shall bear the same proportion to the whole amount assured by said policy as the number of annual premiums actually paid shall bear to the number stipulated to be paid. Said paid-up and commuted policy shall participate in the profits or earnings
227 of the company, and shall be subject to the same liabilities for indebtedness and to the same conditions as the original.

SEC. 46. Whenever any member shall desire to surrender his policy after two or more premiums shall have been paid thereon he shall receive, in consideration of such surrender, a sum equal to ninety per cent. of the actual reserve of such policy, after deducting therefrom his indebtedness to the company. He shall also receive,

in addition thereto, the full value of accrued dividends, if any are due and owing to him.

SEC. 47. All assets, including the money, notes, bonds, mortgages, deeds of trust, and other securities of the company, shall be under the control of the general board of directors and in the custody of the treasurer or of such other person or persons as the general board of directors may appoint.

Standard of mortality and interest.

SEC. 48. The standard of this company for making all computations into which the contingencies of life enter, except such computations as shall be connected with children's endowment policies and with annuities, shall be the table of mortality known as
228 the American experience table, in which table the expectation of life and the number living and dying at each age from ten to ninety-five out of one hundred thousand persons living at age — ten are as stated in the schedule hereto annexed. In estimating the liabilities of the company under or on account of outstanding policies and other deferred obligations the rate of interest assumed shall be four and a half per cent. per annum. In estimating the value of future premiums and other prospective assets the same rate of interest shall be assumed, and no account shall be taken of such portions of future premiums as are intended to defray future expenses.

Dividends.

SEC. 49. It shall be the duty of the actuary to prepare and attach to his annual re— to the president, as provided in the nineteenth section, a statement showing, first, the number of policies issued during the year, specifying the description; second, the amount of assurance effected thereby; third, the amount of premiums received during the year, specifying the amount received from each description of policies; fourth, the amount received for interest and all other receipts during the
229 year, classifying the items; fifth, the amount of losses paid during the year; sixth, the amount of dividends paid during the year; seventh, the amount of expenses during the year, specifying the items; eighth, the amount of assets, specifying particularly the description of securities in which they are invested and showing the amount invested in each description; ninth, the amount of liabilities, specifying the items, as follows: 1st, the present value of the liability under all outstanding policies, calculated on the standard of mortality and interest of the company, as designated in the preceding section; 2nd, the amount of losses unpaid; 3d, the amount of expenses unpaid; 4th, the amount of commissions due or to become due on the business included in the assets and unpaid; 5th, the amount of dividends declared and unpaid; 6th, the amount of all other liabilities; tenth, the amount of actual surplus over all liabilities. It shall be the duty of the general board of directors, at their meeting in the month of January in each year, to order the

distribution of the surplus shown to exist by the actuary's statement, or such part of said surplus as they may deem advisable.
230 In every such distribution of surplus each member whose policy shall have been in existence more than one year shall be entitled to participate, or if any member shall have paid the whole of his premium in cash he shall be entitled to participate in such distribution of surplus, whether his policy shall have been in existence one year or not. All surplus which shall have arisen from profit on insurance, saving in expense and profit interest on investment, shall be distributed among the policy-holders in such proportion as they shall each have contributed thereto. Miscellaneous profits, being all such profits as may arise from other sources than those named, shall be distributed equitably among all the policy-holders. Dividends shall in all cases be payable to each policy-holder entitled thereto at the first anniversary of his policy after such dividend shall have been declared.

Investments.

SEC. 50. The manner of making loans and investments shall be in accordance with such regulations regarding the examination of titles, estimations of values, and forms of conveyance as may be from time to time adopted by the general board of directors.
231 SEC. 51. The "net present value" of the liabilities of the company under policies issued to members of each department, as fixed by the standard of valuation of the company, shall be invested and kept invested within such department: Provided, however, That no such investment shall be made except in the manner and upon the securities provided in section 52.

SEC. 52. The board of directors of each department shall loan the money to be invested *in* said department by the provisions of the fifty-first section of this charter, as the same shall be realized: Provided, That no such loan shall be made except upon a majority vote of the department board of directors and subject to the provisions of the fiftieth section, and unless the payment of the money so loaned be secured by policies of the company for an amount not to exceed ninety per cent. of the net present value of such policies, as fixed by the standard of valuation of the company, or by mortgages or deeds of trust upon unincumbered real estate worth at least three times the amount loaned thereon, and unless such real estate shall be situated within such limits as shall be designated by the
232 general board of directors: And provided further, That if the money to be loaned within such department cannot be loaned within such department on such securities mentioned in this section or upon such terms or at such a rate of interest as shall be satisfactory to the general board of directors within thirty days after the money shall have been reported as received at the department office, then it shall be the duty of the treasurer of the department to forward said money to the treasurer of the company at St. Louis, to be invested only in loans to parties residing within the department from which the same shall have been derived, provided the proper

securities can be obtained from such parties, to be invested as the general board of directors may deem proper.

SEC. 53. The money and funds of the company and such funds as shall not be invested by the department boards shall be invested in or loaned upon Treasury notes and bonds of the United States and in the city and county bonds; also in notes or bonds secured by mortgages or deeds of trust on real estate worth at least double
233 the amount loaned thereon, or it may be loaned on the security of policies in the company to an amount not to exceed ninety per cent. of the net present value of such policies as fixed by the standard valuation of the company, or upon such other good and sufficient security, not personal, as the general board of directors may authorize.

SEC. 54. The general board of directors shall appoint an attorney for each district within which money is to be loaned, and no loan shall be made within such district except upon the recommendation of the board of directors of the department to which such district belongs and the approval, in writing, of such attorney.

Failure to hold meetings.

SEC. 55. Whenever the time of holding any meeting, as fixed in this charter, shall fall on Sunday or a holiday such meeting shall be holden on the next succeeding day not a Sunday or holiday.

SEC. 56. Should any department or branch board fail to hold
234 any meeting or to elect officers as required by this charter such meeting shall be holden and such election shall take place as the general board of directors shall determine.

General provisions.

SEC. 57. No member shall be personally responsible for any debt, loss, or other liability or obligation of the company, nor shall any director or trustee be responsible, except for such funds and property of the company as may come into his possession, officially or otherwise.

SEC. 58. The nine departments now existing shall be adjudged departments under the provisions of this charter. The president and elected officers and directors of these departments shall hold office until the annual meeting of the board of trustees, in January, 1870, as provided in section twenty-five.

SEC. 59. When a policy is issued on the life of a husband for the benefit of his wife the husband shall be the member of the company.

SEC. 60. Nothing in this charter shall be so construed as to
235 prevent this company from doing business through agents and resident trustees and branch boards of trustees in any State or Territory or a part of a State or Territory not created a department.

Approved Oct. 2d, 1869.

SCHEDULE ANNEXED.

Table of Mortality, Based on American Experience.

Age.	Numbers living.	Numbers dying.	Expectation of life.
10	100,000	749	48.72
11	99,251	746	48.08
12	98,505	743	47.44
13	97,762	740	46.82
14	96,285	737	46.16
15	95,550	735	45.50
16	94,818	732	44.85
17	94,089	729	44.19
18	93,362	727	43.53
19	93,600	725	42.87
20	92,637	723	42.20
21	91,914	722	41.53
22	91,192	721	40.85
23	90,471	720	40.17
24	89,751	719	39.49
25	89,032	718	38.81
26	88,314	718	38.11
27	87,596	718	37.43
28	86,878	718	36.73
29	86,170	719	36.03
30	85,441	720	35.33
31	84,721	721	34.62
32	84,000	723	33.92
33	83,277	726	33.21
34	82,551	729	32.50
35	81,822	732	31.78
36	81,000	737	31.07
37	80,353	742	30.35
38	79,611	749	29.62
39	78,862	756	28.90
40	78,106	765	28.18
41	77,341	774	27.45
42	76,567	785	26.72
43	75,782	797	25.99
44	74,985	812	25.27
45	74,173	828	24.54
46	73,345	848	23.80
47	72,497	870	23.08
48	71,627	896	22.36
49	70,731	927	21.63
50	69,804	962	20.91
51	68,842	1,001	20.20
52	67,841	1,044	19.49

SCHEDULE ANNEXED—Continued.

Age.	Numbers living.	Numbers dying.	Expectation of life.
53	66,797	1,091	18.70
54	65,706	1,143	18.09
55	64,563	1,199	17.40
237 56	63,364	1,260	16.72
57	62,104	1,325	16.05
58	60,779	1,394	15.39
59	59,385	1,468	14.74
60	57,917	1,546	14.09
61	56,371	1,628	13.47
62	54,743	1,713	12.86
63	53,030	1,800	12.26
64	51,230	1,889	11.68
65	49,341	1,980	11.10
66	47,361	2,070	10.54
67	45,291	2,158	10
68	43,133	2,243	9.48
69	40,890	2,321	8.98
70	38,569	2,391	8.48
71	36,178	2,448	8
72	33,730	2,487	7.54
73	31,243	2,505	7.10
74	28,738	2,501	6.68
75	26,237	2,476	6.28
76	23,761	2,431	5.88
77	21,330	2,369	5.48
78	18,961	2,291	5.10
79	16,670	2,196	4.74
80	14,474	2,091	4.38
81	12,383	1,964	4.04
82	10,419	1,816	3.71
83	8,603	1,648	3.39
84	6,955	1,470	3.08
238 85	5,485	1,292	2.77
86	4,193	1,114	2.47
87	3,079	933	2.19
88	2,146	744	1.93
89	1,402	555	1.69
90	847	385	1.42
91	462	246	1.19
92	216	137	.98
93	79	58	.80
94	21	18	.64
95	3	3	.50

239 *Amended Charter of the Life Association of America, Approved November 17th, 1874, Referred to and Made Part of Complainant's Note of Evidence and Filed July 5th, 1884.*

Amended charter of the Life Association of America.

SECTION 1. The name of this corporation shall be "Life Association of America," and by this name it shall have succession for the period of nine hundred and ninety-nine years. It shall be hereinafter referred to as the association. Its principal office for the transaction of business shall be located in the city of St. Louis, State of Missouri, and shall be hereinafter referred to as the general office.

SECTION 2. The association shall have power and authority to make and issue, buy, sell, grant, and otherwise acquire and dispose of policies of insurance, endowments, annuities, and contracts of every description depending on the duration of human lives, and in general to do and perform every act and thing which may be lawfully done and performed by companies incorporated under and by the authority of an act of the General Assembly of the State of Missouri,
entitled "An act for the incorporation and regulation of life
240 assurance companies," approved March 10, 1869.

SEC. 3. The business of the association shall be transacted on the mutual plan, but non-participating policies may be issued as hereinafter provided. Each mutual policy-holder shall be a member of the association, and shall when duly qualified be eligible to any office thereof.

SEC. 4. The corporate powers of the association shall be exercised by a board of directors, sixty in number, to be called the general board of directors and to be constituted in the manner following: Fifteen members, citizens of Missouri, shall be elected as provided in section five hereof; the remaining forty-five directors shall be the presidents of the department boards of the forty-five departments organized or to be organized under this charter, each such president being "*ex officio*" a member of the general board of directors: Provided, however, That the presidents of departments formed after any election shall not become "*ex officio*" members of said board until its next annual election; and if at any time,
from lack of organization of the full number of departments
241 or for any other reason, there shall not be forty-five "*ex officio*" directors qualified as such, the vacancies in the general board shall be filled as provided in section five hereof. The general board of directors shall establish and conduct the business of the association within all the States and Territories of the United States and in foreign countries wherever, in their judgment, the interests of the association may require; and in each State, Territory, or foreign country in which it shall transact business there may be organized departments and branches of the association in the manner and with the rights, powers, and privileges hereinafter provided; and for the organization of such departments and branches and the

transaction of business therein the general board of directors may appoint such subordinate officers and agents as, in their judgment, the business of the association may require, and they may make such by-laws, rules, and regulations for the government of the business of the association as they may deem proper, not inconsistent with the provisions of this charter.

SEC. 5. Five directors of the general board shall be elected, to serve for the term of three years each, at a meeting to be held at
242 the general office of the association in the city of St. Louis on the Tuesday preceding the third Wednesday of the month of May of each year. Notice of such election shall be published once each week, or oftener, for four weeks preceding such meeting, in a newspaper of general circulation published in each town or city where there shall be a department office. At each such election the voting shall be by ballot, and each member of the association shall be entitled to cast one vote, and, in addition thereto, one vote for every one hundred dollars of the net present terminal value of his policy or policies (at the end of the policy year current on December 31st preceding), as fixed by the standard of valuation of the association; and such votes may be cast by proxy, subject to the provisions of an act of the General *association* of the State of Missouri, entitled "An act for the incorporation and regulation of life assurance companies," approved March 10, 1869, and of such by-laws, not inconsistent with said act, as may from time to time be made by the general board of directors. All vacancies in said board, however caused, shall be filled by the board for the time re-
243 maining until the next following election. Elected members of all boards of directors shall serve until their successors shall have been duly elected and shall have signified their acceptance of office.

SEC. 6. Carlos S. Greeley, Logan D. Dameron, James H. Maxon, George H. Loker, and Henry J. Spaunhorst shall serve as elected directors until the first election to be held under this charter, in May, 1875; James H. Britton, Felix Coste, William C. Kennett, John T. Douglass, and Henry W. Hough shall serve as elected directors until the second election to be held under this charter, in May, 1876; and Robert Barth, Ephraim G. Obear, Joseph M. Fox, Samuel M. Dodd, and Edwin W. Bryant shall serve as elected directors until the third election to be held under this charter, in May, 1877. The present officers of the association and of the various departments thereof shall continue in office until the next regular election or until their successors shall have been duly elected and shall have signified their acceptance of office.

SEC. 7. No person shall be eligible to membership in any board of trustees or of directors unless there shall be in force in the
244 association, on his life or in his name, a policy or policies insuring at least ten thousand dollars, or else paying a yearly premium of at least two hundred and fifty dollars.

SEC. 8. The general board of directors shall hold a regular meeting on the third Wednesday of each month. The president or the secretary of the association may call a special meeting of the board

at any time, and shall do so on the written request of any five members of the board. Such meeting shall be called by notice, stating the time and place of the meeting, a copy of which notice, addressed to each elected member of the board, shall be mailed to him or left at his usual place of residence or of business at least twenty-four hours before the time appointed for such meeting. At any meeting a majority of the fifteen members elected under the fifth section of this charter, with such of the other members of the board as may be present, shall constitute a quorum, and no business can be transacted at any meeting of said board unless a majority of said fifteen elected members be present.

SEC. 9. The officers of the association shall be a president
245 and one or more vice-presidents, a secretary, actuary, treasurer, medical officer, attorney, and such other officers as may be necessary for the transaction of the business. The president and vice-president of the association shall be elected annually by the general board of directors, from among the elected members thereof, at a meeting to be held on the day following the election of the general board of directors. They shall hold office for one year and until their successors shall have been duly elected and shall have signified to said board their acceptance of office. The other officers of the association shall be elected by the same board at a regular meeting or at any special meeting called for that purpose, and shall hold office during the pleasure of the board. The compensation of all officers and employés of the association shall be fixed by said board of directors.

SEC. 10. The general board of directors may create departments of the association and designate the territory to be included within the same and the names by which they shall be known, and, whenever they shall judge proper, may change the extent and
246 boundaries of such departments; said board shall appoint and organize for every department, when created, a board of trustees, to be known as the board of trustees of said department. The general board of directors shall fix the number of trustees of which said board shall consist, and may at any time increase the same or may diminish the number when vacancies occur, or may fill such vacancies. Every trustee, when duly elected and commissioned, shall continue to be a trustee so long as the insurance required by the seventh section of this charter shall be kept in force, unless he shall previously resign or shall cease to reside within the territorial limits of the department or shall be removed by the general board of directors for conduct injurious to the association.

SEC. 11. The board of trustees of each department shall annually, at a regular meeting, to be held on the second Tuesday in the month of January, elect by ballot, from among their own number, a board of directors, which shall be known as the board of directors
247 of said department and shall consist of thirteen members, five of whom shall constitute a quorum for the transaction of business. At such election, and at all other times when the members of the board of trustees shall have the right to vote, each trustee shall have one vote.

SEC. 12. The officers of each department board of directors shall be a president, vice-president, and secretary. The president and vice-president of each department shall be elected annually by the department board of directors, from among their own number, at a meeting to be held immediately after the annual election of said board. They shall hold office for one year and until their successors shall have been duly elected and shall have signified their acceptance of office. They shall be subject to removal by a three-fourths majority of said board. The secretary shall be appointed by the general board of directors.

SEC. 13. The department board of directors may annually elect a treasurer, who shall, before entering on the duties of his office, be approved by the general board of directors. He shall credit to the "Life Association of America" all moneys of the association
248 coming into his hands, which moneys shall be subject to the order of the association, and he shall upon the tenth day of each month remit to the treasurer of the association the balance remaining in his hands on that day. He shall give a bond to the association for the faithful performance of his duties. If no treasurer should be elected by the department board of directors the general board of directors shall designate a depository in the place where the department board is located to receive the funds of the association.

SEC. 14. The general board of directors shall appoint in writing a suitable person in each department, who shall be known as the manager of said department, and they shall specify in his appointment his duties and the extent of his authority in the care and management of the business of the department. He shall be paid by and shall be responsible to them, and shall continue to act as manager during the pleasure of said board. He shall deposit daily with the treasurer or depository of the department all moneys of the association coming into his possession after deducting therefrom such disbursements as shall have been authorized in writing
249 by the general board.

SECTION 15. The board of directors of each department shall hold a regular meeting on the tenth day of each month, at which meeting reports shall be received from the manager and the secretary. The manager's report shall contain a detailed exhibit of the business transacted within the department during the preceding month, together with such applications for loans as he may have received. The secretary's report shall show the conditions of accounts between the department and the general office of the association. A copy of each of the above reports shall be forwarded to the general office of the association.

SEC. 16. The general board of directors may create a branch board of trustees at any place within the territory of any department, or may elect and commission one or more resident trustees at any place within such territory other than the town or village at which the office of a branch board shall be located. Whenever a vacancy shall occur in a branch board of trustees it shall be the duty of the manager, or, in his abscence, of the president of the department,

to nominate some person, to be approved by said board, for election by the general board of directors to fill the vacancy.

SEC. 17. The officers of each branch board of trustees shall be a president, vice-president, and secretary. The president and vice-president shall be elected annually by said board, at a regular meeting, to be held on the second Tuesday in January of each year, and shall hold office for one year and until their successors shall have been elected and shall have signified their acceptance of office. The secretary shall be appointed by the manager, who shall be responsible for his acts.

SEC. 18. Each branch board of trustees shall hold a regular meeting on the first day of each month, at which meeting a report shall be received from the secretary of the branch, which report shall contain a detailed account of the business transacted at said branch during the preceding month. A copy of said report shall be forwarded to the department manager, together with such application for loans as may have been approved by the board. Resident trustees of the association shall also, on the first day of each month, make a report of any business they may have transacted to the manager of the department with which they are connected.

SEC. 19. Every trustee of the association shall be empowered to receive written applications for insurance in the association, and when such applications are accepted, policies issued, and premiums collected thereon he shall (except on the premiums of policies issued to qualify persons as trustees, upon which no commissions shall be allowed) be entitled to the following commissions, to wit: Twenty per cent. on the first annual premiums and seven and one-half per cent. on the second, third, and fourth annual premiums of life policies, payable by ten or more annual premiums and endowments maturing in more than fifteen years; fifteen per cent. on the first annual premiums and five per cent. on the second, third, and fourth annual premiums of policies paid for by not more than five annual premiums or maturing in not more than fifteen years, and four per cent. on the premiums of policies paid for by a single payment. Such commissions shall cease whenever said trustee shall cease to be a trustee of the association.

SEC. 20. All policies of insurance, endowments, annuities, and contracts of every kind shall be signed by the president and the secretary and shall be sealed with the seal of the association.

SEC. 21. All assets, including the moneys, bonds, notes, mortgages, deeds of trust, and other securities of the association, shall be under the control of the general board of directors and in the custody of the treasurer or of such other person or persons as the general board of directors may appoint.

SEC. 22. All loans and investments shall be made in accordance with such regulations regarding the examinations of titles, estimates of value, and forms of conveyance as may be from time to time adopted by the general board of directors, but no loans shall be made against the security of real estate for an amount exceeding one-half its value.

253 SEC. 23. There shall be loaned and kept loaned in each department a sum equal to the net terminal value or premium reserve (taken at the end of the preceding policy year and computed by a net valuation at four and one-half per centum yearly interest and the table of mortality designated by the general board of directors) of all participating whole life and endowment insurance policies in force upon the lives of persons resident within such department: Provided, however, That no such loan shall be made except in the manner and upon the securities provided in section twenty-four.

SEC. 24. The board of directors of each department shall loan the money to be invested in said department by the provisions of the twenty-third section hereof: Provided, That no such loan shall be made except after approval by a majority vote of the department board of directors and subject to the provisions of the twenty-second section hereof, and unless the payment of the money so loaned be secured by mortgages or deeds of trust upon unincumbered real estate worth at least three times the amount loaned thereon and situated within such limits as shall be designated by the general board of directors: And provided further, That if the money to be loaned within any department cannot be immediately loaned within such department on the securities mentioned in this
254 section, or upon such terms or at such rate of interest as shall be satisfactory to the general board of directors, then until such loans can be so made such money shall be loaned or invested by the general board of directors under the provisions of the following section:

SEC. 25. The money and funds of the association not loaned under the provisions of the preceding section shall, subject to the provisions of section twenty-two, be invested in or loaned upon Treasury notes or bonds of the United States, or bonds of any State of the United States, or city or county bonds, or notes or bonds secured by mortgages or deeds of trust on unincumbered real estate, or upon such other good and sufficient security as the general board of directors may authorize: Provided, That no loans shall be made on personal security only.

SEC. 26. The general board of directors shall appoint an attorney for each department, and no loan shall be made within such department except upon the approval, in writting, of such attorney.

SEC. 27. The association shall have power to grant non-participating policies of insurance, endowments, annuities, or any and
255 all other description of contracts depending on the duration of human life, and all such policies and contracts shall be expressed to be non-participating, and the holder of any such policy or contract shall not thereby be held to be a member of the association or entitled to any share in its earnings, surplus, or profits.

SEC. 28. The participating whole life and endowment insurance policies issued by the association shall become entitled to be exchanged for paid-up policies (or to be continued in force for their full amount for a limited term in lieu of paid-up policies) upon such

conditions and after such number of premium payments as shall be stipulated in the policies.

SEC. 29. Any participating whole life or endowment insurance policy subject to the payment of premiums, on which five or more years premiums shall have been paid, may be surrendered to the association at the end of any policy year by the legal holder of such policy, and in consideration of the surrender thereof he shall be entitled to receive a sum not less than ninety-five (95) per centum of the deposit value of the policy, as hereinafter defined: Provided,

That no surrender value shall be paid unless the policy be
256 surrendered within one year after its lapse by non-payment of premiums. Any participating commuted or paid-up whole life or endowment insurance policy which shall have been in force five or more years since the date of its commutation or issue may be surrendered to the association at the end of any policy year by the legal holder of such policy, and in consideration of the surrender thereof he shall be entitled to receive a sum not less than ninety-five (95) per centum of the deposit value of the policy, as hereinafter defined. The deposit value of the policy above referred to is hereby defined to be the residue of the net single premium after deducting from it the present value of the future contributions to death claims, such single premium, present value, and contributions to death claims to be determined by the American table of mortality, with four and one-half per centum yearly interest. The deposit value shall in all cases be computed upon the amount of the commuted or paid-up insurance to which the surrendered policy shall have become entitled by its terms and by the number of premiums paid. All

surrender values shall be payable within sixty days after the
257 surrender of the policies. All the provisions of this section shall, during the continuance of this charter, apply to the policies now existing and to those hereafter issued.

SEC. 30. Nothing contained in this charter shall be so construed as to prevent the association from issuing policies which shall be subject to no provisions respecting surrender values, or policies in which said provisions shall be expressly made applicable only after payment of more than five annual premiums, or policies in which there shall be express stipulations as to the term of years which shall elapse before the divisible surplus contributed by such policies shall be apportioned upon them; but no such policies or any others shall be issued by the association except upon plans which shall be publicly made known, and which, so long as policies are issued on them, shall be open alike to all fit subjects for insurance.

SEC. 32. Whenever the time of holding any meeting, as fixed by this charter, shall fall upon a Sunday or a holiday such meeting shall be held on the next succeeding day not a Sunday or a holiday.

SEC. 32. Should any department or branch board fail to
258 hold any meeting for the election of officers, as required by this charter, such meeting shall be held and such election take place as the general board of directors shall determine.

SEC. 33. No policy-holder shall be personally responsible for any debt, loss, or other liability or obligation of the association; nor shall any director or trustee be responsible, except for such funds and property of the association as may come into his possession.

SEC. 34. Nothing in this charter shall be so construed as to prevent the association from doing business through agents, resident trustees, or branch boards of trustees in any State or Territory or part of a State or Territory not created a department, and the number of departments shall not exceed forty-five.

SEC. 35. It shall be the duty of the general board of directors to cause to be prepared and published, as soon as practicable after the first day in July in each year, a statement of the business transactions of the association during the year ending June thirtieth preceding, and of its conditions on that day. Such statement shall exhibit a detailed account of receipts and disbursements
259 and full schedules of assets and liabilities, including in the latter the amounts necessary to safely reinsure all outstanding risks. A similar statement may also be made for the calendar year ending December thirty-first. From the surplus, if any, existing over all liabilities, as shown by a statement as aforesaid for the calendar year or for the fiscal year of the association ending June thirtieth, the general board of directors may, in its discretion, order a distribution to be made of such amounts as they may deem advisable. The share of each member participating in the surplus divided shall be proportionate to the surplus contributed thereto by his own policy, making a just and equitable allowance for interest, mortality, and expenses, and regarding the terms and conditions of the policy; and such share shall be paid or applied on his policy on its anniversary next following such distribution (unless otherwise stipulated in the policy). The general board of directors shall have power to grant additional temporary insurance (for one year) on any participating policy to an amount not exceeding
260 twenty-five per cent. of the sum insured in the policy. Such additional insurance may be renewed from year to year or may be agreed to be continued by yearly renewal for a term of five years or ten years. After the expiration of such additional insurance the policy upon which it has been granted shall participate in distributions of surplus thereafter made under the provisions of the fourth and fifth sentences of this section.

SEC. 36. This charter shall be subject to amendment in the manner prescribed in section fifteen (15) of an act of the General Assembly of the State of Missouri approved March 10, 1869, entitled "An act for the incorporation and regulation of life assurance companies." At all meetings held for the purpose of voting on amendments to this charter each member shall be entitled to vote in the manner set forth in the third sentence of the fifth section hereof.

Approved November 17th, 1874.

INSURANCE DEPARTMENT, STATE OF MISSOURI.

261 I, —— ——, superintendent of the insurance department of the State of Missouri, do hereby certify that I have compared

the foregoing copy of the amended charter of the Life Association of America with the original on file in this department, and that the same is a correct transcript therefrom and of the whole of said original.

In witness whereof I have hereunto set my hand and affixed my official seal, at city of St. Louis, this — day of ——, A. D. 187–.

——— ———,
Superintendent.

Defendant's Note of Evidence. Filed July 5th, 1884.

JOHN F. WILLIAMS, Superintendent,
vs.
W. E. HAMILTON,
and
W. E. HAMILTON
vs.
JOHN F. WILLIAMS.
} No. 10 & No. 11.

Minutes of evidence offered by defendant.

1. Testimony of William E. Hamiton, taken by consent,
262 and the exhibits annexed thereto, marked 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 (which are transcribed on pages 69 to 91 of this transcript).

2. Appointment of J. B. Hood as attorney for the State of Louisiana, of March 10th, 1877, marked 16.

(Transcribed on page 91 of this transcript.)

(Signed) R. J. LOONEY &
ALEXANDER & BLANCHARD,
Solicitors for Def't.

Decree. Entered and Filed May 16th, 1885.

JOHN F. WILLIAMS, Superintendent, &c.,
vs.
W. E. HAMILTON,
and
W. E. HAMILTON
vs.
JOHN F. WILLIAMS, Superintendent, &c.,
} Nos. 10 & 11. In Chancery.

In the above cases, after trial and due consideration by the court, it is ordered and adjudged by the court that John F. Wil-
263 liams, superintendent, take nothing on his bill of complaint, and said bill is hereby dismissed.

And it is further adjudged and ordered that the bill of complaint of W. E. Hamilton be sustained and the injunction of said Hamilton be, and is hereby, made perpetual.

And it is further ordered that the demands in reconvention of the said Hamilton in his bill of complaint be, and is hereby, rejected without prejudice and of nonsuit.

And it is further ordered and decreed that said John F. Williams, superintendent, pay all costs of these suits.

Done and signed at Monroe, Louisiana, on this 16th day of May, 1885.

(Signed) ALECK BOARMAN,
U. S. Judge.

Petition for Appeal. Filed May 28th, 1885.

JOHN F. WILLIAMS, Superintendent, &c.,
vs.
WM. E. HAMILTON,
and
264 WM. E. HAMILTON
vs.
JOHN F. WILLIAMS, Superintendent.
} Nos. 10 & 11.

The petition of Alfred Carr respectfully represents that he is the superintendent of the insurance department of the State of Missouri, having succeeded John F. William, late superintendent; that he is a citizen of the State of Missouri and resides at St. Louis, and as such superintendent succeeded to all the rights and interests of John F. Williams as superintendent; that he is aggrieved by the final decree rendered in this cause on the 16th day of May, 1885, and desires to take an appeal therefrom to the Supreme Court of the United States; that the amount involved in said suit exceeds the sum or value of five thousand dollars exclusive of costs.

Wherefore petitioner prays that an appeal be allowed to him to the Supreme Court of the United States from the final decree
265 rendered in this cause on the 16th day of May, 1885, to be holden at Washington, D. C., on the second Monday of October next, 1885, and that citation do issue and be served according to law upon the defendant in error, William E. Hamilton.

(Signed) ALFRED GOLDTHWAITE,
Solicitor for Petitioner.

Order Allowing Appeal.

Let the appeal as prayed for be allowed, plaintiff to give bond in the sum of one thousand dollars, according to law.

May 26th, 1885.

(Signed) ALECK BOARMAN,
U. S. Judge.

Bond for Appeal. Filed May 28th, 1885.

UNITED STATES OF AMERICA:

Know all men by these presents that we, Alfred Carr, superintendent of the insurance department of the State of Missouri,
266 and John R. Fell, are held and firmly bound, jointly and severally, unto William E. Hamilton in the sum of one thousand dollars, lawful money of the United States of America, to be paid to the said William E. Hamilton, his heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves and each of us, by himself and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated the 26th day of May, in the year of our Lord eighteen hundred and eighty-five.

Whereas the said Alfred Carr, superintendent, etc., having heretofore, to wit, on the 26th day of May, 1885, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the 16th day of May, 1885, by the circuit court of the United States for the fifth circuit, holding sessions in and for
267 the western district of Louisiana, in the suit of John F. Williams, superintendent of the insurance department of the State of Missouri, *vs.* William E. Hamilton, Nos. 10 & 11 of the docket thereof:

Now, the condition of the above obligation is that if the above-bounden Alfred Carr, superintendent, &c., shall prosecute his said appeal to effect and shall answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and virtue.

(Signed) ALFRED CARR,
Superintendent of the Insurance Department of the State of Missouri,
By A. GOLDTHWAITE, *Att'y.*

(Signed) JNO. R. FELL.

Approved.
(Signed) ALECK BOARMAN,
U. S. Judge.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, } *ss:*

Personally appeared Jno. R. Fell, who, being duly sworn,
268 deposes and says that he is the surety on the within bond; that he resides at 441 Prytania St., New Orleans, La., and is worth the full sum of one thousand dollars over and above all of his debts and liabilities and property exempt from execution.

(Signed) JNO. R. FELL.

Subscribed and sworn before me this 26th day of May, 1885.
(Signed) E. R. HUNT,
Comm'r U. S. Circuit Court, Eastern Dist. of Louisiana.

269 UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Western District of Louisiana.

CLERK'S OFFICE.

I, John W. Wheaton, clerk of the circuit court of the United States for the fifth circuit and western district of Louisiana, do hereby certify that the foregoing 268 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced, on the trial of the cases of John F. Williams, superintendent, &c., *versus* William E. Hamilton and William E. Hamilton *vs.* John F. Wiliams, superintendent, &c., Nos. 10 & 11 of the docket of the said court.

Witness my hand and the seal of said court, at the city of Shreveport, La., this 1st day of August, A. D. 1885.

[Seal U. S. Circuit Court for the Western Dist. of La.]

J. W. WHEATON, *Clerk.*

I, Aleck Boarman, United States judge for the Western district of Louisiana, do certify that John W. Wheaton, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and western district of Louisiana, was at the time of signing said certificate and is now the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of Shreveport, Louisiana, in said district, this 1st day of August, A. D. 1885.

ALECK BOARMAN, *Judge.*

270 *Citation.*

The United States of America to William E. Hamilton, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to an appeal filed in the clerk's office of the circuit court of the United States for the western district of Louisiana, wherein Alfred Carr, superintendent of the insurance department of the State of Missouri, is plaintiff in error and you are defendant in error, to show cause, if any there be, why the final decree rendered against the said plaintiff in error, as in the said appeal mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

271 Witness the Honorable Aleck Boarman, district judge of the United States for the western district of Louisiana, this the 26th day of May, in the year of our Lord one thousand eight hundred and eighty-five.

ALECK BOARMAN,
U. S. Judge.

On this 10th day of June, in the year of our Lord one thousand eight hundred and eighty-five, personally appeared before me, the subscriber, P. B. Weaks, dep'y mar., and makes oath that he delivered a true copy of the within citation to William E. Hamilton.

P. B. WEAKS, *D'y Mar.*

Sworn to & subscribed before me this 10th day of June, 1885.

J. W. WHEATON, *Clerk.*

272 Rec'd in office May 30th, 1885, and on the 9th day of June, same year, I made personal service of the within on W. E. Hamilton by handing — a copy of within in the city of Shreveport.

P. B. WEAKS,
D'y Marshal.

[Endorsed:] Nos. 10 & 11. U. S. circuit court, western dist. of La. In equity. Jno. F. Williams, sup't, &c., *vs.* William E. Hamilton and William E. Hamilton *vs.* Jno. F. Williams, sup't. Citation of appeal to S. C. of U. S. A. Goldthwaite, sol'r for compl't. Filed May 28, '85. J. W. Wheaton, clerk.

Endorsed on cover: W. Louisiana C. C. U. S. No. 376. Alfred Carr, superintendent of the insurance department of the State of Missouri, appellant, *vs.* William E. Hamilton. Filed October 12, 1885.

FILED
NOV 7 1888
JAMES H. McKENNEY,
CLERK

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1888.

No. 105.

ALFRED CARR, SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF THE STATE OF MISSOURI,
APPELLANT,

versus

WILLIAM E. HAMILTON, APPELLEE.

ALFRED GOLDTHWAITE,
Of Counsel for Appellant.

T. H. Thomason, Printer, 33 Natchez Street.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1888.

No. 105.

ALFRED CARR, SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF THE STATE OF MISSOURI, APPELLANT,

versus

WILLIAM E. HAMILTON, APPELLEE.

Carr, as the Superintendent of the Insurance Department of the State of Missouri, prosecutes this appeal from a decree in equity dismissing the bill of complaint, filed by his predecessor in office, John F. Williams, against William E. Hamilton, in the United States Circuit Court for the Western District of Louisiana.

The bill of complaint, originally filed, was the ordinary petition used in the practice of the State Courts for executory process.

Under the decisions, the proceedings by executory process are proceedings in equity. Marin vs. Lally,

17 Wallace, p. 14; Waugespack vs. Bank, 4 Woods, p. 130.

Subsequently, an amended bill of complaint was filed by leave of the Circuit Judge, making the suit a simple bill in equity to foreclose a mortgage. Record, pp. 20, 21, 22.

The bill of complaint sets forth that Hamilton was the maker of a promissory note for the sum of thirty-eight hundred and fifty dollars, dated March 11th, 1870, due twelve months after date, with eight per cent. interest from maturity. That the note, with interest from March 11th, 1879, and attorney's fees, at five per cent., is secured by mortgage upon certain real estate in the City of Shreveport, Louisiana.

The plaintiff asks for the usual process in suits for foreclosure.

To the original bill of complaint the defendant, Hamilton, answered and set up a defence of prescription of five years to the note, and peremption of ten years to the mortgage; and, in his answer, adopted the allegations made in an original bill, filed on the same day, in the same Court by him, against John F. Williams, Superindendent of the Department of Insurance of the State of Missouri, and James C. Weaks, United States Marshal for the Western District of Louisiana. Record, pp. 7–8.

Upon the original bill filed by Williams, Superintendent, an order for executory process to issue as prayed for having been made by the District Judge,

and notice of seizure having been given and served, Record, pp. 5, 6, 7, to stay proceedings, Hamilton had to obtain an injunction.

He chose to proceed by an original bill for injunction. Record, pp. 9, 10, 11, 12, The order for an injunction was granted without notice and without bond. Record, p. 13. The averments of this bill of complaint are:

1. That the proceedings by executory process in the suit of Williams, Superintendent, vs. Hamilton, are unjust, and contrary to all law and all principles of equity.

2. That the note and mortgage sued on never had a legal or equitable existence; that the so-called Louisiana and Texas Department of the Life Association of America never had a corporate existence, and that the Life Association of America never had any authority to do a banking business, or to loan money on interest or discount, and if it did so, it was *ultra vires.* That if the debt had a legal existence, it had been extinguished in a just, legal and equitable manner.

The bill then avers that complainant, Hamilton, took out a policy upon his life in 1869, in the sum of ten thousand dollars, for the benefit of his children, the policy being a non-forfeiting policy, to be fully paid up in ten years from date; that in December, 1877, complainant, Hamilton, consented to a reduction of his policy to the sum of seven thousand and five hundred dollars; that he continued to pay his premiums until August, 1879, when he paid his last premium,

constituting his paid up, non-forfeitable policy of insurance. The amount paid being in all six thousand seven hundred and fifty-nine and $\frac{18}{100}$ dollars ($6,759.18). That soon after the last and full payment was made, the said Life Association of America forfeited its charter.

Complainant avers, that on or about 11th March, 1870, he received the amount of ——— dollars, and gave the note and mortgage sued on by Williams, Superintendent, but says that there was an express stipulation and agreement between him, Hamilton and one Lindsay, the President of the Shreveport District, that as long as he, Hamilton, promptly paid his premiums on his policy and interest on his note, that no demand would be made for the principal thereof, until either the death of Hamilton or until the endowment fell due in 1884, and that that was the sole motive he had in receiving said money and giving his note therefor, and that this agreement was to have been put into writing. He charges fraud and bad faith on the part of the Company, its officers and agents, in dealing with him. He asks to be put in the same situation as he was in the beginning of his agreement with said Life Association of America, and pleads in compensation and reconvention said sum of six thousand seven hundred and fifty-nine $\frac{18}{100}$ ($6,759.18) dollars, and prays for an injunction.

To the bill of complaint Williams, Superintendent, filed a full and explicit answer.

He averred that he was the Superintendent of the Department of Insurance, vested by law with all the assets of the dissolved corporation, the Life Association of America. That the said Association had been a corporation authorized to do a business of life insurance upon the MUTUAL plan only. That the legal title of the said note and mortgage, and the right to the possession thereof, was vested in him, as a statutory trustee and the legal representative and successor of said dissolved corporation. He averred the regularity of his original proceedings in the Circuit Court for the Western District of Louisiana, denied that the Louisiana and Texas Department of the Life Association of America was a corporation, but that it was only a branch of the parent office, and under the absolute control and authority of the parent office. That it was a mere agent, with limited and prescribed powers, subject to change, modification or abolishment at any time by the general board of directors. Denied that it ever did a banking business, and in its business in the department of Louisiana and Texas, acted strictly within the scope of its charter at the time of making said loan, and had full power to make such loan, and to take mortgages on real estate to secure the payment of the same. Denied the extinguishment of the debt in any way, and particularly in the form and manner alleged in paragraph fourth of complainant's bill. Averred that the original policy issued to complainant had been reduced in good faith, and that complainant

was not in anything deceived, and that the said reduction had been accepted and acquiesced in by complainant. That the insolvency of the corporation had resulted from a depreciation of its property and securities, and not through any fault or negligence of said corporation or its officers, and that the contract was a valid and subsisting one to be enforced against said corporation or its officers or legal representatives.

Further, denied that complainant could set up any verbal agreement with J. B. Hood, deceased, or with anyone; denied the authority of J. B. Hood to make any agreement, such as was alleged; denied that the letter referred to contained any such admission as was pretended by plaintiff, and denied all fraud or ill practices on the part of the dissolved corporation or its legal representatives.

And, further, denied that compensation could be pleaded or that said note was prescribed and the mortgage was perempted.

There was no replication filed in either the suit of Williams, Superintendent, vs. Hamilton, or in the suit of Hamilton vs. Williams, Superintendent, et al.

By consent of parties the suits were consolidated to be tried together. Rec. p. 20.

Afterwards the amended bill of complaint, converting the original suit of Williams, Superintendent, vs. Hamilton, into an ordinary bill in equity to foreclose a mortgage was filed. Record, pp. 20, 21, 22;

and an answer thereto was filed by Hamilton. Record, p. 23.

By agreement the case was consolidated and heard in chambers, and that the judgments should be rendered in vacation. P. 23. On pages 24 and 25 will be found the note of evidence of complainant, Williams, Superintendent.

There was no objection in the Circuit Court to the want of replications. In this Court, "not having been made there, it will be considered as having been waived." Fretz vs. Stover, 20 Wall. 204.

The bill of complaint was filed June 28th, 1883. Record, p. 1. Notice of seizure was issued from the clerk's office June 29th, 1883, and served June 30th, 1883. Record, p. 5. The writ of seizure and sale was issued from the clerk's office July 6th, 1883, p. 6, and served on July 7th, 1883. P. 7.

The note was dated March 11th, 1870, and interest was paid to March 11th, 1879. P. 3. See, also, letter from Felix Coste, Treas., dated St. Louis, March 18th, 1879, to W. E. Hamilton. Record, pp. 32, 33. See, also, cross-examination of W. E. Hamilton at p. 37.

The mortgage was recorded March 11th, 1870, and re-recorded May 28th, 1881. Record, p. 4.

The term for prescription "of bills of exchange, notes payable to order, or bearer, and on all promissory notes, whether negotiable or otherwise, is five years, reckoning from the day when the engagements were payable." Rev. Civil Code, Art. 3540.

Under the law of Louisiana registry or inscription of the mortgage is necessary. The registry preserves the evidence of mortgages during ten years, reckoning from the day of its date. Re-inscription, in the manner in which it was first made, must be made to continue its effect beyond ten years. Rev. Civil Code, Arts. 3342 (3314), 3343 (3315), 3369 (3333); Shepherd vs. Orleans Cotton Press Company, 2 An. 101; Liddel vs. Rucker, 13 An. 569.

In this case no rights of third persons were presented, and the re-inscription after ten years was good.

We submit that there is nothing in the defence of prescription of five years and the peremption of ten years.

II.

In the injunction suit filed by Hamilton vs. Williams, Superintendent, etc., and James C. Weaks, complainant first denies that the debt or mortgage ever had a valid and legal existence; and, second, if it ever existed, avers that there was an express stipulation and agreement between him "and said Lindsay, and the so-called Shreveport district, that as long as your orator (meaning Hamilton) promptly paid his premiums on his said policy, and interest on said note, that no demand would be made for the payment of the principal thereof, until either the death of your orator, or until his endowment fell due in 1884, and that the sole motive your orator had in receiving said money and giving his note and mortgage, was to ac-

cept and avail himself of the equitable security offered him by said Shreveport district, to insure the honest good faith and solvency of the Life Association of America to pay their obligations to him according to the tenor and effect of their policy to him in the premises."

The bill of complaint further charged fraud and ill-practice on the part of the Life Association of America in obtaining the reduction of the policy from ten thousand dollars to seven thousand and five hundred dollars.

It asked to have the situation between the parties previous to the reduction restored, and pleaded in compensation and reconvention the sum of six thousand seven hundred and fifty-nine $\frac{18}{100}$ dollars, and asked for an injunction.

The substantial defence contained in the answer of the Superintendent of the Department of Insurance, is that the note and mortgage were obtained in a proper and legal manner in the course of business, authorized by the charter and amended charters of the Company, and that the Life Association of America, having been duly incorporated as a purely MUTUAL Company, authorized to do a business of life insurance upon the MUTUAL plan only, and all business necessarily connected therewith, the debt due by the Life Association of America to Hamilton upon his policy is not a mutual debt with that due by Hamilton to the Life Association, and, therefore, not subject to offset or

compensation. The answer denies any agreement, and all fraud or ill-practice.

The proof of the note and mortgage is complete.

Did the Life Association of America have the authority to make such loan, and receive the note and mortgage to secure the same?

The original articles of incorporation of the Life Association of America are to be found in the Record at pages 70, 71, 72, 73. The amended charter, approved October 2d, 1869, is to be found at pages 74 to 88, inclusive. By Section 52, Amended Charter, 1869, at page 87, the mode and method of investment is fully prescribed.

The agreement between Hood, Manager and Pres. La. and Texas Dept., and R. H. Lindsay, Pres., Shreveport, Record, pp. 26, 27, 28, shows nothing contrary to, or in violation of, the charter and amended charter of the Company.

There is not a word of testimony or thing to prove in the Record any stipulation or agreement between "your orator and said Lindsay and the so-called Shreveport district, that as long as your orator promptly paid his premiums on his said policy, and interest on said note, that no demand would be made for the payment of the principal thereof until either the death of your orator, or until his endowment fell due in 1884."

There was a policy issued to William E. Hamilton upon the endownment plan. The full amount of ten thousand dollars was to be paid to William Elijah

Hamilton, or assigns, on the 14th day of July, 1884, or, if he should die before that date, to his children, if all the conditions were performed. Record, pp. 50, 51. The policy was non-forfeitable after two annual payments had been made.

It is admitted that the policy had been paid up in full on August 1st, 1879, as shown by the testimony of Hamilton, Record, p. 26, and the receipts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, Record, pp. 29 to 32, inclusive.

On the 10th day of November, 1879, by final decree of the Circuit Court in and for the City of St. Louis, and State of Missouri, in a cause wherein William S. Relfe, as Superintendent of the Insurance Department of Missouri, was plaintiff, and the Life Association of America was defendant, the Life Association of America, a company, incorporated under the laws of the State of Missouri, was dissolved, and the title to to all assets of said Corporation was vested absolutely in William S. Relfe, as Superintendent of the Insurance Department of the State of Missouri, and his successor or successors in office. Record, pp. 46, 47, 48, 49.

As appears by the statement of the Actuary for the Insurance Department of Missouri, Record pp. 55, 56, 57, the value of Hamilton's policy on the 10th November, 1879, when the Company was determined by process of law, was on the whole $10,000, making no account of the reduction, no new policy ever having been issued, $7779.95, from which deduction out-

standing note of $2372.90 left $5407.05 as the net value, and which amount was allowed by the Commissioner, and approved by the Circuit Court of St. Louis. See testimony of Jno. F. Williams, Record, pp. 41, 42, 43.

Three dividends, of 5.74 per cent. each, have been declared, and a further dividend of 2 per cent. may be expected. It does not appear that Hamilton or his children collected the dividends due on said policy.

No proof was offered to substantiate the charge of fraud or ill-practice.

The single point remains whether the debt due by Hamilton to the defunct Life Association of America and the debt due by the Life Association of America to Hamilton are mutual debts and subject to compensation and set off.

III.

The original articles of association of the Life Association of Missouri were entered into June 13th, 1868, and are found in Record, pp. 71, 72, 73, 74.

The amended charter of the Life Association of America was approved October 2d, 1869, and is found in Record, pp. 74 to 88, inclusive.

The corporation was originally chartered, and, with its various amendments, continued to be a mutual Company. It had the power to do business in each State and Territory of the United States.

By its charter the policy-holders were to elect the

Board of Directors annually on such day, and at such place as the by-laws of said Corporation may prescribe.

The amended charter of October, 1869, provided for departments and districts, eligibility of members to the Boards of Directors of the Departments, investments of funds in each Department, etc. And that no member should be personally responsible for any debt, loss or other liability, or obligation of the Company, nor should any director, or trustee, be responsible, except for such funds and property of the Company as might come into his possession officially or otherwise.

The policy issued to Hamilton was an endowment policy, upon which nine annual premiums were to be paid. It was payable in fifteen years, on the 14th day of July, 1884, to William E. Hamilton, if he should be living, and if he should die any time before July 14th, 1884, it was to be payable to his children, Fannie Noomis, Carrie Bryan, Pinnie Chaffe, John Clinton and William Edward Hamilton, or their legal guardian, in case they are under age, or their executors, administrators, or assigns. Record, p. 50. The Corporation was dissolved by process of law on the 10th of November, 1879, Record, p. 46, and the obligation under the policy, which was unmatured, became absolute and exigible. By calculation and from tables the policy had a value, a net value of $5407.05, p. 56, on the 10th of November, 1879. But to whom was this value payable? By the terms of the policy

it was payable to Hamilton only upon the condition that he should be alive on the 14th July, 1884. If he should die before, it was payable to his children named in the policy.

Almost the identical case has been adjudicated in New York. We print the whole opinion:

"EARL, J. On the 7th day of December, 1871, the Atlantic Mutual Life Insurance Company issued, upon the life of Charles Almy, a paid-up endowment policy, by which it agreed to pay Mary A. Almy the sum of $1454, in the event that Charles died before December 7th, 1880, or, in the event of his living at that time, to pay that sum to him.

"On the same day it issued another paid-up endowment policy for $2240, upon the same life, for the term of fourteen years, and the Company agreed to pay the amount insured to Mary A. Almy, upon the death of Charles, or in case he should live until the 7th of December, 1885, to pay the amount to him. The reserve value of these two policies, at the time of the appointment of the plaintiff, as receiver, in August, 1877, was $2779.95. At that time the Company held against Almy a past due promissory note for $2000, and he was also indebted to it for $226.31 for money had and received.

"The plaintiff seeks to enforce payment from Almy of the amount of the note, and money had and received; and he claims an offset for the reserve value of the two policies; and the question for our determination is, whether he is entitled to such offset.

"At the time of the appointment of the plaintiff as receiver these policies had not become due, and it was, not therefore, known to whom they would be payable. The time had not come when, by the termination of the

policies, either of them was payable, either to Almy, or his wife. If he died before the times mentioned in the policies, then the sums became payable to his wife; if he survived those periods, they became payable to him. Hence, both he and his wife were interested in the policies. He had no right, without her consent, to destroy or discharge the policies, and she had no right to do so without his consent. The policies did not belong exclusively to either. It is true that they had a reserve value at the time when plaintiff was appointed receiver, and for that value they were entitled to their *pro rata* share from the assets of the Company. But to whom was that value payable? It did not belong to Almy at that time, neither did it belong to his wife. It could not then be known to whom it would ultimately be payable. Neither one could at that time demand payment of that value, or receipt for or discharge it. Either one could claim that the money should be paid into Court, and invested under its direction to await the event upon which it would be determined to whom it was payable. Under such circumstances it is impossible to say that at the time of the appointment of the plaintiff, as receiver, the money was due to Almy, in such a sense that he could avail himself of it as an offset.

"It is true that one policy, by its terms, matured on the 7th of December, 1880, so that at the time this action was commenced the defendant was solely interested in that policy, and was solely entitled to the reserve value thereof. But that value was not due at the time the plaintiff was appointed receiver, and, hence, is not available as an offset (Myers vs. Davis, 22 N. Y. 489; Martin vs. Kunzmuller, 37 *id.* 396).

"Even if Almy had a special interest in the policies, the value of which might have been computed by tables in use by life insurance and annuity companies,

the case contains no data for the computation of such value. He claimed to offset the whole of the reserve value, and as that did not wholly belong to him, he was not entitled to the offset.

"This is not a case of mutual credits between the Insurance Company and the defendant, within the meaning of 2 Revised Statutes, 47, Section 36, and there are no principles of equity upon which this offset can be enforced. We are, therefore, of opinion, that no error was committed to the prejudice of the defendant in the court below, and its judgment should be affirmed with costs." Newcomb vs. Almy, 96 New York, 308.

The debt due by the Life Association under the policy, by reason of its insolvency, was not due to W. E. Hamilton on the 10th November, 1879. He could not receipt for it and discharge the Association or the receiver, nor could the children named in the policy receipt for it and discharge the Association, or receiver, on said date.

Both Hamilton and his children would have been required to sign the receipt and discharge. By the insolvency the debt became due to joint creditors, or if either Hamilton or his children had chosen to do so, a bill could have been filed to determine to whom the money was due, and the right of Hamilton to the offset if he had any. See opinion of this Court in case Gray vs. Rollo, 18 Wallace, 634:

"The debtor who owes a debt to several creditors jointly cannot discharge it by setting up a claim which he has against one of those creditors, for the others have no concern with his claim and cannot be

affected by it; and no more can one of several joint creditors, who is sued by the common debtor for a separate claim, set off the joint demand in discharge of his own debt, for he has no right thus to appropriate it. Equity will not allow him to pay his separate debt out of the joint fund. And if he had the assent of his co-obligees to do this, he has no reciprocal right to do the same thing." See also Watson vs. Mid Wales Railway Co., Law Reports, 2 vol. Com. P. 593.

In 31 New Jersey Equity Reports, 4 Stewart, at p. 15, a case very like our case is reported Henry Prinz took out a policy in the New Jersey Mutual Life Insurance Company on the endowment plan. Had paid all the premiums which, under the contract, he could ever have been required to pay. But the time of payment of the policy had not arrived when the decree of insolvency was made. He borrowed money on the security of his bond and mortgage from the Company. It was a condition of making the loan to him that he should take out a life policy in the Company, and he did so accordingly. He did not pay the bond and mortgage, and it went into the hands of the receiver, and he sued. The Court say:

"Prinz asks that he may be permitted to offset against the amount of that claim against him, the money paid by way of premiums on the policy. Of course, there was no agreement between him and the Company, that those premiums should be applied to the payment of the bond and mortgage. They were paid on account of his insurance. The rank of his claim as a policy-holder is as before stated. The fact

that he has in his hands assets of the Company, cannot entitle him to any advantage over other policy-holders in the same rank, and the fact that he is a debtor of the Company gives him no equity over them. He is not entitled to the offset which he claims, nor to any."

Hamilton was insured in a mutual company. He was both an insurer and insured. The capital of the Company was the premiums, invested in notes and mortgages and bonds, constituting the reserve fund, which by law it was required to have. There were no shares or liability to assessments. The relations between the policy-holders were mutual, and should have been equal. There is no equity in giving one policy-holder an advantage over other policy-holders, because he has assets of the Corporation in his posession.

As was said in the case of Hillier vs. Allegheny County Mutual Insurance Co., 3 Penn. State Rep. p. 474:

"The plain and practicable plan of setting the affairs of an insolvent company of mutual insurers is to liquidate its means and its responsibilities separately."

IV.

The Louisiana Revised Civil Code, at Article 2054, provides:

"Whenever there is a cession of property, either voluntary or forced, all debts due by the insolvent shall be deemed to be due, although contracted to be paid at a term not yet arrived; but in such case a discount

must be made of the interest at the highest conventional rate, if none has been agreed by the contract."

In France the Code of Commerce, at Articles 443, 444, is explicit.

The judgment declaring the insolvency imports of full right (*de plein droit*) to commence from its date, a divestiture for the bankrupt of the administration of his property.

It makes exigible, with respect to the bankrupt, the debts not yet due.

Demolombe, vol. 28 or 5th vol. on "Traité des Contrats ou des Obligations Conventionelles en general," at p. 400, Section 540, writes:

"Il faut donc que l'exigibilité de droit soit venue, pour que la compensation s'opère, et encore, toute espèce d'exigibilité ne produit-elle pas cet effet. Il est vrai que, d'après les articles 1188 du Code Napoleon et 444 du Code de Commerce, 'Le jugement déclaratif de faillite rend exigible à l'égard du failli, les dettes passive non échues.'

"Mais cette exigibilité accidentelle, qui a pour cause la faillite, est, par cela même, surbornée aux effets, que le regime de la faillite entraîne.

"Or, aux termes de l'article 443, du Code de Commerce, le jugement déclaratif de faillité emporte, de plein droit, à partir de sa date, dessaisissement, pour le failli, de l'administration de tous ses biens.

"C'est-a-dire que, au même moment oú la dette devient exigible, le payement ne peut plus en être fait par le faillite, au préjudice de la masse des créanciers.

"Donc, la compensation, que n'est qu'un payement fictif, est, dés ce moment, aussi impossible (Art. 1298), et cela n'est pas moins équitable que logique.

"L'exigibilité, que produit la faillite, a lieu, en effet, dans l'intérêt de la masse, afin de rendre la liquidation plus facile et plus prompté or, tout au contraire, elle serait trés-préjudiciable à la masse, si elle produisait, la compensation entre les dettes à terme du failli, et les dettes antérieurement échues, dont quelques-uns de ses créanciers pourraient être tenus envers lui.

"Qu'en resulterait-il en effet?

"C'est que ces créanciers, retenant en payement de toute la somme qui leur est due, toute la somme, qu'ils doivent, recevraient un payement intégral.

"Tandis-que les autres créanciers chirographaires, payés qu'ils seraient au marc le franc, ne recevraient qu'un dividend proportionel à leurs créances. Resultat inique et essentiellement contraire au but de la loi, qui vent maintenir, le plus possible, l'égalité entre tous les créanciers de la faillite, cette démonstration nous paraît complète."

V.

In Louisiana the Revised Civil Code, Art. at 2209, says:

"Compensation takes place between two debtors, having equally for their object a sum of money, or a certain quantity of consumable things, of one and the same kind, and which are equally liquidated and demandable."

We submit that the debt due by Hamilton was upon a promissory note, past due. The debt due from the Life Association of America upon the policy was not liquidated. The insolvency of the Association determined the debt, but not for the $10,000. Hamilton himself did not know what the value of the policy was, and did not sue for its value. He pleaded the amount of premiums he had paid in compensation of

the debt he owed. The calculation of the value of the policy was made by an Actuary and not until June 28th, 1884. Record, pp. 55, 56.

If the value, as reported by the Actuary, was due to Hamilton in 1879, the debt was not equally liquidated and demandable with the debt of Hamilton to the Association when the compensation was pleaded. Phelps vs. Stone, 3 An. 617; Fagot et als. vs. Porche, 7 La. 562; Hoffman vs. Pontchartrain R. R., 9 La, 20; Lacoste vs. Bordére, 7 Mart. N. S. 516; Owen, Adm., vs. Vanderslice, 9 An. 189.

VI.

This Court in the case of Relfe vs. Rundle, 103 U. S. p. 222, determined the character of the Superintendent of the Insurance Department of the State of Missouri in his relation to policy-holders and the assets of the dissolved corporation.

The attention of this Court will be directed by the learned counsel for the appellee to the case of Life Association of America vs. Levy, 33 An. 1203.

We submit that the judgment rendered in that case was wrong. The reconventional demand there was filed under the practice in the State Courts. Code of Practice, Art. 375.

The demand was not incidental to the suit of the Life Association of America, and but for Article 375, C. P., could not have been advanced in that suit or pleaded

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JAMES H. McKENNEY,
CLERK

ALFRED CARR, Superintendent, Etc.,

vs.

WILLIAM E. HAMILTON.

No. 105

In the Supreme Court of the United States,

BRIEF OF WILLIAM E. HAMILTON, Appellee.



ALFRED CARR, Superintendent, Etc.,

vs.

WILLIAM E. HAMILTON.

No......

In the Supreme Court of the United States,

BRIEF OF WILLIAM E. HAMILTON, Appellee.

STATEMENT OF ISSUES.

This is an action brought in the Circuit Court of the United States, sitting as a court of equity for the Western District of Louisiana, at Shreveport, La., to enforce a contract made in Louisiana, to be executed in said State, and made between William E. Hamilton on the one part and Robert H. Lindsay, as president of the Shreveport District of the Louisiana and Texas Department of the Life Association of America, both being at the time of said contracts residents and citizens of the State of Louisiana.

And by certain rules of said Circuit Court the action is brought under the laws of Louisiana called

Executory Process, and fully expressed in the Code of Practice of said State in the articles from No. 732 to 751, *which see, with the bill of complaint.* Transcript pages 1 and 2.

Your Honors will see by these articles that the remedy is an extraordinary one; the proceeding *ex parte*, and strictly requires that every fact necessary to the validity of the proceeding must be presented by authentic evidence of the note, of any endorsements or transfers thereon; also of the execution of the mortgage sought to be enforced *via executivi.*

It also appears that the debtor who has equitable or legal defences may arrest the sale by injunction on setting forth his defences. It is also provided by said articles, and by the uniform jurisprudence of the State, that when the debtor arrests the proceedings by injunction the creditor may except to the process of injunction, and if it is illegally granted have it dissolved with damages and his proceeding *via executivi* continues.

But if the creditor answers to the suit for injunction and puts the allegations of the debtor at issue he thereby abandons his proceeding *via executivi*, and the whole matter becomes an action *via ordinaria*, to be heard and tried as any other ordinary action.

W. E. Hamilton, the debtor and defendant, availed himself of the right of injunction granted by the Article 739 of the Code of Practice in his bill of

complaint, found in the Transcript, pages from 7 to 12.

And the creditor then, John F. Williams, answered, fully putting at issue the allegations of the debtor's bill. Transcript, from 15 to 18.

We will only call the attention of Your Honors to the very strange assumption of the plaintiff that John B. Hood and Robert H. Lindsay were but the agents of the Life Association of America, when the fact is patent that neither Hood nor Lindsay acted as agents personally of any one, except as the agents and giving voice, each, to boards of directors; boards that never had a particle of legal life or existence, to bind or represent any one in law or equity, and then in his answer he denies the power of these so-called agents to make the agreement averred by Hamilton and found in the transcript from page 26 to 28. An agreement never disavowed from the 16th of April, 1870, until after the 10th day of July, 1883, when Hamilton filed his bill of complaint. See Transcript, page 12.

But as Hamilton recognized the board of directors of the so-called Shreveport District, in making all of his payments to that board, we feel sure that neither Hamilton nor plaintiff will be heard to deny the agency of even these lifeless boards, and that the contract made on the 16th of April, 1870, between J. B. Hood and R. H. Lindsay are as binding on

the Life Association as the note and mortgage of March 11th, 1870.

The issue is then narrowed down to the point of the legal and equitable right of Hamilton to his plea of compensation (offset) and that point has been definitely established by the Supreme Court of Louisiana in the case of The Life Association (this same plaintiff) vs. Levy. 33 La. Ann. 1203.

And not to recapitulate, we pray Your Honors to carefully read that cause and the authorities therein cited, adopting them as conclusive of this cause.

But we urge that the case at bar is much stronger for relief than the case referred to.

In the case cited you will find that at the date when said case was determined Levy was still a member of the Mutual corporation. His policy was *still a risk*, while in the case at bar you will find that in accordance with the special stipulations of his policy Hamilton paid and discharged every obligation to the corporation *before the 14th day of July*. 1879. See his policy, Transcript 50-51.

And Hamilton's testimony on page 26, in which he says: "Witness states that in good faith, and never having heard or intimated that the Life Association disputed the authority of J. B. Hood, their agent, that he paid in cash to Thomas Phillips, secretary of the aforesaid Shreveport District, and to R. H. Lindsay, president of said district, and to Samuel Flower, secretary of the Louisiana Depart-

ment, on his said policy, the sum of $6,949.12, as is shown by the annexed receipts Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and that *his said policy was paid in full.*"

The receipts referred to are found on Transcript, pp. 29 to 32.

This is not denied, nor is his good faith questioned, nor is it pretended that the Association was insolvent at said time, nor is it questioned that the interest of one-fourth, surrendered on the 3rd day of December, 1877, was, at the time Hamilton ceased to belong to the corporation, worth less than $1,635.22 in cash to the corporation, making his outlay $8,584.34.

Then on the 14th day of July, 1879, the relation of insurer and insured expired—all risks on his life ended—he ceased thereby to be a member of the corporation, and the relation of debtor and creditor was fixed—all liabilities were merged into a debt positive or indefeasable by virtue of the contract of the policy and the contract of reduction thereof and fixed at $7,500.00 ond $1,635.22, the cash value of the fourth surrendered, making $9,135.22.

We most earnestly submit that we can conceive of no principle of law, justice or equity that can bind Hamilton after he had paid and discharged his last obligation, expressed or implied, in his contract of his policy—got his last receipt of acquittance—that

closed all rights of mutuality or insurance, to still and indefinitely as to time or circumstance, warrant the continued solvency and prudence of a corporation in which he had no possible interest or connection than to collect his debt, fixed and indefeasable by the very terms of their contract, and the fact that the $7,500.00 endowment was not to be paid until the 14th day of July, 1884, can have no effect on his debt liquidated and fixed on the 14th of July, 1879.

Your Honors, we know, will give us no more than the law and equity of the case requires. Our view of the law and equities of the case differ from those of the plaintiff or of his solicitors. Your Honors will know the weight of the testimony. We believe that you will differ with the witness Williams as to the law and principles he enunciates in his answers to interrogatories, and more especially in his answer to the ninth cross interrogatory found in the transcript p. 42–43. He is without doubt honest and earnest in his opinions expressed, but we differ from him and believe this court will, in settling the issues of this case.

And referring to the opinion of law given by the witness as to what Hamilton is entitled under the law, we close by again bringing to the attention of the court that Hamilton is not suing the Life Association in the courts of the State of Missouri, but is defending himself as a citizen of Louisiana, not as a member of a partnership, but as one who once be-

longed to a corporation—a corporation that on full, final settlement fell in his debt on the 14th of July, 1879, in the sum of $9,135.22, less the amount of the note sued on, to-wit: $3,850.00, with all interest paid to March the 11th, 1879, at which time, under our laws of Louisiana compensation took place, or at least interest would offset interest in Hamilton's favor, and the account would stand $9,135.22 — $3,850.00 = $5,285.22.

And although Hamilton may never recover his losses, surely law and equity presents him with this shield against all the aggressive attacks of the plaintiff.

For which reason we pray for a decree giving us all the equitable relief that we claim in our bill of complaint.

R. J. LOONEY,
T. ALEXANDER,
N. C. BLANCHARD.
Of Counsel for Defendant.

See especially
Scammon vs Kimball
92 U.S. 362